

In the Matter of:

FTC v. Zaappaaz, LLC, et al.

August 11, 2021
Azim Makanojiya

Condensed Transcript with Word Index



For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 (Pages 1 to 4)

<p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 AZIM MAKANOJIYA,</p> <p>3 after having been duly sworn remotely by the</p> <p>4 stenographer, was examined and testified as</p> <p>5 follows:</p> <p>6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>7 BY MS. SCHAEFER:</p> <p>8 Q Good morning, Mr. Makanojiya. Is that</p> <p>9 right? Am I pronouncing it correctly?</p> <p>10 A Pretty close, yes. Good morning.</p> <p>11 Q Okay. My name is Michelle Schaefer,</p> <p>12 and I am an attorney with the Federal Trade</p> <p>13 Commission. I represent the FTC in this</p> <p>14 litigation, and I'm currently taking this</p> <p>15 deposition from my home in Maryland. I'm with my</p> <p>16 co-counsel, Anne Collesano. She also represents</p> <p>17 the FTC. She is participating in this deposition</p> <p>18 remotely as well in her home in Virginia.</p> <p>19 Quickly just let me go through the</p> <p>20 details of how we're conducting this virtual</p> <p>21 deposition. We're conducting it virtual because</p> <p>22 of the pandemic. We're using AgileLaw, a remote</p> <p>23 deposition application, to share documents, and</p> <p>24 we're using Zoom to see each other by video.</p> <p>25 We're also using Zoom for audio.</p>	<p style="text-align: right;">7</p> <p>1 You took it. Do you understand the nature of the</p> <p>2 oath?</p> <p>3 A If I understand what?</p> <p>4 Q The nature of the oath, your</p> <p>5 obligation to tell the truth.</p> <p>6 A I do.</p> <p>7 Q Okay. The court reporter is taking</p> <p>8 down everything you say. So it's important that</p> <p>9 you be clear and you complete your sentences and</p> <p>10 your words and don't use head gestures like</p> <p>11 nodding or shaking your head or uh-uh, no. Just</p> <p>12 say no or yes in complete sentences.</p> <p>13 She can only record one thing at a</p> <p>14 time. So make sure to try to let me finish my</p> <p>15 questions and I also will try and let you finish</p> <p>16 your answers before moving on. We don't want to</p> <p>17 interrupt each other so she can transcribe</p> <p>18 properly. And let me know if you need a break.</p> <p>19 Are you currently under the influence</p> <p>20 of any medication that could affect your ability</p> <p>21 to testify today?</p> <p>22 A No.</p> <p>23 Q Okay. So I'm going to go ahead. And</p> <p>24 do you see the notice of deposition of Zaappaaz</p> <p>25 LLC here?</p>
<p style="text-align: right;">6</p> <p>1 Prior to going on the record, we</p> <p>2 confirmed we could hear each other. If at any</p> <p>3 point there's -- you have trouble hearing,</p> <p>4 seeing, accessing documents, let me know. We'll</p> <p>5 try to resolve the situation.</p> <p>6 Let's just quickly go around and have</p> <p>7 everyone say who they are. I said I'm Michelle</p> <p>8 Schaefer. I'm here for the FTC.</p> <p>9 Anne, did you want to introduce</p> <p>10 yourself?</p> <p>11 MS. COLLESANO: Hi, I'm Anne</p> <p>12 Collesano. I also represent the FTC.</p> <p>13 MR. BLANCHARD: This is Michael</p> <p>14 Blanchard. I am here in the conference room in</p> <p>15 Houston with my client, Mr. Makanojiya.</p> <p>16 THE WITNESS: Azim Makanojiya.</p> <p>17 BY MS. SCHAEFER:</p> <p>18 Q Okay. And we're here today to receive</p> <p>19 sworn testimony from you. Let me go through some</p> <p>20 ground rules. I'll be asking you a series of</p> <p>21 questions. You're under oath. So you're</p> <p>22 expected to provide a full and truthful answer.</p> <p>23 If you don't understand the question, let me</p> <p>24 know. I'll clarify the best I can.</p> <p>25 The court recorder gave you an oath.</p>	<p style="text-align: right;">8</p> <p>1 A I do.</p> <p>2 MS. SCHAEFER: Okay. I have marked</p> <p>3 this as Zaappaaz Exhibit 1.</p> <p>4 (Deposition Exhibit Number 1 was</p> <p>5 marked for identification and attached to the</p> <p>6 transcript.)</p> <p>7 BY MS. SCHAEFER:</p> <p>8 Q Have you seen this document before?</p> <p>9 A I have.</p> <p>10 Q Okay. And this notice lists a number</p> <p>11 of topics on which Zaappaaz LLC was required to</p> <p>12 designate someone to provide testimony on the</p> <p>13 company's behalf. And Mr. Blanchard informed me</p> <p>14 that you're being offered as the company's</p> <p>15 designated representative to testify on all of</p> <p>16 the topics set forth in the notice; is that</p> <p>17 correct?</p> <p>18 A That is correct.</p> <p>19 Q You are also an individual defendant</p> <p>20 in this case, and your individual deposition has</p> <p>21 been noticed for tomorrow. However, for</p> <p>22 efficiency sake, Mr. Blanchard and I agreed to</p> <p>23 take both the 30(b)(6) and the individual</p> <p>24 deposition at the same time, again in the</p> <p>25 interest of time and efficiency.</p>

<p style="text-align: right;">9</p> <p>1 Do you understand that?</p> <p>2 A I do.</p> <p>3 Q So what I'm going to do is to the</p> <p>4 extent I'm asking about the company, I'll make</p> <p>5 clear that I'm asking about Zaappaaz. To the</p> <p>6 extent I'm asking about something in your</p> <p>7 individual capacity, I'll make sure to clarify</p> <p>8 that.</p> <p>9 Do you understand those instructions?</p> <p>10 A I do.</p> <p>11 Q Okay. So have you ever been deposed</p> <p>12 before?</p> <p>13 A No. Never.</p> <p>14 Q Okay. I want to -- just so we're all</p> <p>15 on the same page, we're going to be talking about</p> <p>16 covered products in this litigation, and I'm just</p> <p>17 going to read the definitions into the record.</p> <p>18 This definition comes from Zaappaaz 1, which is</p> <p>19 the 30(b)(6) notice.</p> <p>20 So for purposes of this deposition,</p> <p>21 covered products means "any product intended to</p> <p>22 detect, treat, prevent, mitigate, or cure any</p> <p>23 disease, including but not limited to, sanitizer,</p> <p>24 sanitizer dispensers, thermometers, medicine,</p> <p>25 medication, and any personal protective equipment</p>	<p style="text-align: right;">11</p> <p>1 have they all been produced to the FTC as far as</p> <p>2 you know?</p> <p>3 A As far as I know, correct.</p> <p>4 Q You said that you also talked to your</p> <p>5 team. Can you tell me who those people are?</p> <p>6 A I spoke with Khalil. I spoke with</p> <p>7 Fatima. I spoke with Eroze.</p> <p>8 (Reporter Clarification.)</p> <p>9 THE WITNESS: Fatima, F-A-T-I-M-A;</p> <p>10 Eroze, E-R-O-Z-E; Khalil, K-H-A-L-I-L. And</p> <p>11 various other CSR reps.</p> <p>12 BY MS. SCHAEFER:</p> <p>13 Q Various other what kind of reps?</p> <p>14 A Customer service reps.</p> <p>15 MR. BLANCHARD: One second, Michelle.</p> <p>16 You probably need to slow down while we're</p> <p>17 talking because it will help the court reporter</p> <p>18 get everything down. I have to consciously do</p> <p>19 it. I'll ask you to do it too.</p> <p>20 MS. SCHAEFER: I'm sorry, Mike. I</p> <p>21 didn't hear that.</p> <p>22 MR. BLANCHARD: I just asked him to</p> <p>23 slow down on his speech.</p> <p>24 MS. SCHAEFER: Oh, okay. Thank you.</p> <p>25 BY MS. SCHAEFER:</p>
<p style="text-align: right;">10</p> <p>1 such as face masks, face shields, gloves,</p> <p>2 goggles, gowns, clothing, or other garments,</p> <p>3 equipment, or devices."</p> <p>4 So how did you prepare for today's</p> <p>5 30(b)(6) deposition?</p> <p>6 A I reviewed the documents that I was</p> <p>7 provided. I spoke with my team in regards to the</p> <p>8 questions that were portrayed to me. We had a</p> <p>9 conversation with the team. I reviewed the</p> <p>10 documents, and I just -- that's the preparation</p> <p>11 I've done so far.</p> <p>12 Q Okay. So how many -- what kinds of</p> <p>13 documents did you review?</p> <p>14 A FedEx tracking, e-mail marketing,</p> <p>15 customer complaints, and --</p> <p>16 Q Did you look at banking documents?</p> <p>17 A Banking?</p> <p>18 Q Banking like financial banking?</p> <p>19 A Yes. Yes, I have.</p> <p>20 Q Did you look at payment processor</p> <p>21 documents?</p> <p>22 A I have, yes.</p> <p>23 Q Advertising?</p> <p>24 A I have.</p> <p>25 Q And the documents that you reviewed,</p>	<p style="text-align: right;">12</p> <p>1 Q So customer -- various customer</p> <p>2 service reps. Who are -- what are customer</p> <p>3 service reps? What do they do for Zaappaaz?</p> <p>4 A Put it in the simplest form, they</p> <p>5 handle customer complaints, calls, back-end</p> <p>6 related stuff such as inputting tracking numbers,</p> <p>7 following up on any customer issues, anything</p> <p>8 related to customer transactions. Let's put it</p> <p>9 that way.</p> <p>10 Q And how many customer service</p> <p>11 representatives does Zaappaaz employ?</p> <p>12 A Zaappaaz employed -- depending on what</p> <p>13 period of time we're talking about, but Zaappaaz</p> <p>14 employed only one to two and not customer sales</p> <p>15 reps. They don't employ customer sales reps. We</p> <p>16 are contracted with a company in India who has</p> <p>17 customer sales reps.</p> <p>18 Q Okay. And who did you -- how many</p> <p>19 customer reps did you speak to?</p> <p>20 A I mean, if you -- I don't know how to</p> <p>21 define it. Over phone, over text. If it's</p> <p>22 text --</p> <p>23 Q I'm sorry. In preparation for this.</p> <p>24 We're still talking about in preparation for this</p> <p>25 deposition. You said you spoke to various</p>

<p style="text-align: right;">13</p> <p>1 customer service representatives. In preparation 2 for this 30(b)(6) deposition, I want to know how 3 many customer service representatives you spoke 4 to and who they were. 5 A I wouldn't say specifically for 6 preparation I spoke to customer sales reps, but 7 it's in the process almost going on for six 8 months. So it's in the back of my head to kind 9 of learn and understand the problems we're 10 having. Specifically getting on a call for 11 deposition, no. But obviously understanding and 12 figuring out what was going on, yes. 13 Q And you testified that, you know, 14 usually you have one to two customer 15 representative agents working for you at a time, 16 but it depends what time we're talking about. 17 Let's say in December 2019, how many customer 18 service agents did Zaappaaz have? 19 A Let me clarify. We don't have 20 customer sales reps in the U.S. 21 Q Okay. 22 A We -- in December 2019, to your 23 question, we had zero employees, I believe. I 24 was the only -- 25 Q Okay.</p>	<p style="text-align: right;">15</p> <p>1 preparation for this 30(b)(6) deposition, you 2 spoke to Khalil, Fatima, Eroze, and then various 3 customer service representatives? 4 A To clarify again, I would like to 5 clarify again, not specifically for the 6 deposition. I have -- I have kept in mind this 7 deposition and got clarity on whatever the 8 concerns were that I needed to get clarity on. I 9 just want to clarify that. 10 Q Okay. So let me talk about -- how did 11 you -- other than what you just explained in 12 terms of preparing for this deposition, did you 13 prepare any other way in terms of preparing 14 personally for your deposition or did preparing 15 personally entail the same prep as preparing for 16 the 30(b)(6) deposition? 17 MR. BLANCHARD: Objection. Vague. 18 You can answer. 19 THE WITNESS: The same way I would 20 have, yeah. 21 BY MS. SCHAEFER: 22 Q All right. So let me keep going on 23 about these customer service agents. 24 So in 2019, December, you're the only 25 employee; however, you contract with Eroze and</p>
<p style="text-align: right;">14</p> <p>1 A I was the only employee at the time. 2 Q Okay. And you -- in terms of 3 contracting customer service representatives, did 4 you have any contracted customer service 5 representatives at that time? 6 A Absolutely. Yeah. 7 Q How many? 8 A Maybe 20, 30, something like that. 9 Q And what did they do? 10 A They were customer service reps. We 11 also had designers on the team as well who 12 created proofs and we -- 13 Q What does it mean to create a proof? 14 A Create a proof is like you order -- 15 let's say you order a mug and you want your logo 16 printed on it. The designers would create that 17 digital image so you know how it looks. 18 Q Okay. And so these 20 contractors 19 includes designers and customer service 20 representatives? 21 A And two managers, correct. 22 Q Who are the managers? 23 A Eroze and Fatima. The names I 24 mentioned earlier. 25 Q Okay. And so you spoke to -- in</p>	<p style="text-align: right;">16</p> <p>1 Fatima's company and their company provides 2 customer service agents; is that right? 3 A That is correct. 4 Q Did their companies also provide the 5 designers you spoke of? 6 A All of them except for, I believe, one 7 at that time. 8 Q And who was the one at that time? 9 A I believe his -- his nickname -- I 10 think his real name is Riyadh, R-I-Y-A-D. He was 11 based out of -- based out of Bangladesh. 12 Q So now let's get to, let's say, 13 January/February 2020. Are you still the only 14 employee? 15 A I believe Khalil is onboarded 16 February-ish or January, one of those months. 17 Q Okay. And why was he onboarded at 18 that time? 19 A He is -- honestly, I don't think PPE 20 hit around that period. He was just onboarded 21 because we were having -- I was starting another 22 business on the side, and obviously I was having 23 kids. So I wanted to transition over to someone 24 that could handle more of day-to-day operations 25 on the company side.</p>

<p style="text-align: right;">17</p> <p>1 Q Okay. What was the new business you 2 were starting? 3 A Various businesses. At that time I 4 think we were looking into -- I don't know. I 5 think car covers, I believe. Car covers or some 6 e-commerce business we were starting at that 7 time. 8 Q And was that business also 9 contemplating importing goods from China to your 10 customers? 11 A All my businesses mostly require 12 importing from China, yeah. 13 Q Okay. So he was onboarded around 14 then. Okay. So that's February -- that's 15 January/February 2020. Okay. Now let's get to 16 March 2020. Are you two the only employees, you 17 and Khalil at this time? 18 A I believe so, yes. Correct. 19 Q And then what about customer service 20 agents provided by the Khans? 21 A Not directly changed but something 22 around that 20 to 30 figure. I mean, the return 23 rate is pretty good. It's not that bad. Nothing 24 drastically changed. 25 Q What do you mean -- oh, okay.</p>	<p style="text-align: right;">19</p> <p>1 Responsibilities in January when he is onboarded 2 or in March? 3 MS. SCHAEFER: When he was onboarded, 4 what were his responsibilities with respect to 5 Zaappaaz? 6 THE WITNESS: His responsibilities at 7 that time was to take over any -- any outside of 8 work that I did. 9 (Reporter clarification.) 10 (Discussion off the record.) 11 THE WITNESS: Khalil's 12 responsibilities were to handle the day-to-day 13 operations for Zaappaaz, handle wire transfers, 14 handle CSR reps in India, adding and removing 15 products, giving authorizations to add and remove 16 products, update prices, give guidance on the 17 delivery of products and core basic requirements 18 on day-to-day operations. My role at that point 19 was to take a step back and give him guidance 20 wherever they were needed. 21 BY MS. SCHAEFER: 22 Q And okay. So that's in -- when he was 23 onboarded? 24 A Correct. 25 Q I think you said January or February</p>
<p style="text-align: right;">18</p> <p>1 MR. BLANCHARD: Michelle, one second. 2 So because we're doing this over Zoom, it would 3 be real helpful if everybody could take a beat 4 before -- because we're talking over each other 5 right now. And I just want to see if we can take 6 a minute, you know, before we start, you know, 7 talking over each other. 8 MS. SCHAEFER: Okay. Fair enough. 9 MR. BLANCHARD: I'm actually adjusting 10 the microphone volume. Is this any better? 11 MS. SCHAEFER: I can hear you well. 12 MR. BLANCHARD: Let me know if this 13 gets too loud or anything. I'm trying to make it 14 as good as possible. 15 MS. SCHAEFER: Maybe bring it down two 16 notches. 17 MR. BLANCHARD: Yes. 18 MS. SCHAEFER: Or three. I don't 19 know. 20 BY MS. SCHAEFER: 21 Q So did there -- so right now we're 22 March 2020. You and Khalil are employees. What 23 responsibilities does Khalil have at this point 24 when he's onboarded? 25 MR. BLANCHARD: Hold on.</p>	<p style="text-align: right;">20</p> <p>1 2020. So then March comes along and do his 2 responsibilities change at all? 3 A I mean, the companies changed, but I 4 mean, the responsibility, he's still handling the 5 day-to-day operations of the company, yeah. 6 Q And how about from March 2020 through, 7 let's say, August 4th, 2020, which is when we 8 filed the complaint, did his duties change? 9 A His duties changed. My duties 10 changed, yeah. I believe they did change. 11 Q And why did they change? 12 A We're a company that never ships goods 13 from the U.S., period, or let's not say never. 14 Ninety-nine percent of the time we do not ship 15 goods from the U.S. And times were changed, and 16 we had to transition over to a warehouse in the 17 U.S., which if you consider that a duty change, 18 yes, he had to handle a warehouse in the U.S. 19 where he had to manage inventory and ship out 20 inventory from our U.S. office. And my duties 21 changed where I was supposed to be hands off and 22 became hands on where I was required to be in the 23 warehouse to process orders. 24 Q And so were you in the warehouse 25 processing orders through when? Are you still</p>

21

1 doing that today? Has that stopped?

2 A I do not do it today, no.

3 Q You're no longer shipping from your
4 U.S. warehouse?

5 A I am not. We are currently in the
6 U.S. I am not.

7 Q Zaappaaz is currently shipping both
8 from the warehouse in China; is that right?

9 A That is correct.

10 Q Did there ever could a time where
11 Zaappaaz completely stopped shipping from China?

12 A No.

13 Q Is -- are you still involved in
14 running Zaappaaz?

15 A Absolutely. It's my company.

16 Q And so you're still running and while
17 you wanted to hand over the reigns to Khalil,
18 have you not done so presently?

19 A I never handed over the reigns. I was
20 always the CEO. Khalil was just a day-to-day
21 operations guy.

22 Q Okay. Let's talk about your role
23 then. What is your role and position currently
24 at Zaappaaz?

25 A Currently I am the same role when we

22

1 had Khalil on board and when we didn't have him
2 on board. So I still manage any upper level
3 decisions that need to be made for the company.
4 If -- if a new vendor needs to be onboarded, he
5 will reach out to me and relay the message. If a
6 salary increase needs to be done, they will reach
7 out to me.

8 So I'm just trying to give you just
9 kind of like scenarios where they would reach out
10 to me. Any -- any development work is probably
11 nothing that would go through me. It would be
12 mostly done, but if it's a major change on the
13 site, it would be something that would be -- that
14 would go through me.

15 Q Okay. And so has it always been your
16 role at Zaappaaz in the past and the present?

17 A I'm sorry. I didn't understand the
18 question.

19 Q So has that -- okay. Before -- you
20 were the only employee before Khalil was
21 onboarded; is that correct?

22 A We had employees five years before
23 that. But if you want clarity, I've been mostly
24 the only -- I've been the sole person that runs
25 the company here in the States.

23

1 Q And so before Khalil worked for the
2 company, who was running the day-to-day
3 operations? Was that you?

4 A Yes.

5 Q You were doing everything that then
6 you onboarded Khalil to do because you wanted to
7 spend time with your family and devote time to
8 other businesses?

9 A Correct.

10 Q And he always -- when he -- does he
11 still work for you?

12 A He does not.

13 Q He no longer works for you. How many
14 employees do you currently have?

15 A Two, three including me.

16 Q Who are the other two?

17 A Kaif.

18 Q What's that?

19 A K, as in kilo, A-I-F, as in frank.

20 I'm not sure of his last name. And then we have
21 Salman, S, as in Sam, A-L, as in Larry, M-A-N, as
22 in Nancy.

23 Q And where are they located?

24 A They're in the office, the warehouse.

25 Q And what are their responsibilities?

24

1 A Same responsibilities that Khalil had.

2 Q And now they run the day-to-day
3 operations?

4 A That is correct.

5 Q Are you still at the warehouse?

6 A Well, every Monday to Friday, yes.

7 Q And they report to you?

8 A They report to me, correct.

9 Q And when did they start working for
10 Zaappaaz, Kaif and Salman?

11 A Estimated time, I think this is their
12 third month.

13 Q When did Khalil stop working for
14 Zaappaaz?

15 A Four months ago, five months ago.

16 Q So you are in charge of the -- are you
17 the CEO? Do you have a title? Are you the chief
18 executive officer? Are you the president? Are
19 you both?

20 A I don't think I have given a formal
21 title, but you could say that I'm the CEO, I
22 guess.

23 Q And when you file your corporate
24 papers, you must indicate whether you're a
25 president.

25

1 A I believe all the partners are a
2 member.

3 Q Okay. When did you -- did you found
4 Zaappaaz?

5 A Well, Zaappaaz is founded by -- by the
6 acronym of Zishan for Z, A for Azim, A for Amir,
7 and P for Parvez. Parvez, P-A-R-V-E-Z. And
8 Amir, just for the reporter, is A-M-I-R.

9 The current -- Parvez and Asif were
10 two founders that left before the company's I
11 guess kind of started. So they were gone, but
12 Zishan, Amir, and myself are still the company
13 partners.

14 Q Who was -- I'm sorry. You said who
15 and yourself?

16 A Me, Zishan, and Amir. Zishan,
17 Z-I-S-H-A-N.

18 Q Who did you -- who do you report to,
19 if anybody?

20 A I do not report to anyone. In terms
21 of financials, at the end of year, distribution,
22 honestly I have no reporting.

23 Q And you don't -- and you manage the
24 company, so everyone reports to you because
25 you're in control; is that right?

26

1 A That's correct.

2 Q Let's go through your education
3 quickly. After college -- after high school, did
4 you go to college?

5 A I did.

6 Q And where did you go to college?

7 A University of Houston.

8 Q And did you go to graduate school
9 after that?

10 A I did not. I dropped out.

11 Q Oh, you dropped out of college. When
12 did you drop out?

13 A My senior year. I don't know what
14 year that is.

15 Q Okay. And do you have any
16 certifications or other sort of --

17 A No.

18 Q Have you retained any certifications
19 or taken any advanced classes?

20 A No.

21 Q When was Zaappaaz founded?

22 A I believe August of 2008. Don't hold
23 me to that. Something like that.

24 Q Okay. Did you own a business before
25 that?

27

1 A I did.

2 Q How many?

3 A Call it a true business, maybe one.

4 It was computer -- computer repair company.

5 Q And what did the company do?

6 A Computer repairs.

7 Q And how many employees did it have?

8 A I was -- I was the only employee.

9 Q And was it -- was it like software
10 repair? Was it hardware repair?

11 A It was both, yeah.

12 Q And how do you have -- so it sounds
13 like you have an expertise in computers. Is that
14 what you studied in college?

15 A I did.

16 Q Did you -- what was your major going
17 to be?

18 A Computer engineering.

19 Q And before college, in high school,
20 were you also interested in computer engineering?

21 A Perhaps, yeah. Maybe. I don't know
22 what I was doing after high school, but yes,
23 something like that.

24 Q Okay. Did you have an expertise in
25 computer in terms of hardware or software or

28

1 coding in high school?

2 A I was -- I was curious. I wouldn't
3 say I was an expert, but I was curious.

4 Q So then you went to college and you
5 were going to major in it and you developed even
6 more expertise. Did you develop more expertise
7 in college?

8 A No, I did not.

9 Q Oh, you did not?

10 A No. I think I --

11 Q Did you -- I'm sorry.

12 A I think it was all self-taught.

13 Q And how long did this computer
14 business last?

15 A I believe three years, maybe four,
16 something like that.

17 Q Did it overlap with when you started
18 Zaappaaz?

19 A It did.

20 Q And what led you to create Zaappaaz?

21 A I went to a conference. There was
22 another young kid who was also an entrepreneur,
23 and I guess I got inspired by that. And we found
24 a niche product, and we got together as friends
25 and thought of just opening a wristband company.

<p style="text-align: right;">29</p> <p>1 Q How many businesses do you own? 2 A I do not know the numbers, but I am -- 3 Q Is it more than -- 4 Yeah, I am part owners or owners at 5 some point of -- 6 COURT REPORTER: What was that? 7 THE WITNESS: Of 10-plus businesses. 8 BY MS. SCHAEFER: 9 Q I didn't hear that either. What was 10 that? 11 A About 10. 10 or more. 12 Q Currently? 13 A Active businesses, maybe five, six. 14 Q And how many of those other than 15 Zaappaaz sell covered products? 16 A PPE products? 17 Q Yes. And we're using covered 18 products. 19 A Oh, okay. 20 Q So if you can say covered products, 21 I'd appreciate that. 22 Yes, covered products. How many other 23 businesses you own sell covered products? 24 MR. BLANCHARD: Objection. Form. 25 THE WITNESS: I can answer?</p>	<p style="text-align: right;">31</p> <p>1 too. 2 MS. SCHAEFER: You don't have to 3 object every time. That's fine. I'm going to 4 use covered products, and your objection stands 5 throughout the deposition. 6 MR. BLANCHARD: And he doesn't have to 7 use that term, just to be clear. 8 MS. SCHAEFER: What's that? 9 MR. BLANCHARD: You asked him to use 10 that term. I just want to be clear that he 11 doesn't have to use that term. 12 MS. SCHAEFER: Okay. 13 (Reporter clarification.) 14 MR. BLANCHARD: Just for the record, I 15 have a running objection to the term "covered 16 products." 17 BY MS. SCHAEFER: 18 Q Okay. We're talking about other 19 businesses you own that sell covered products, 20 and you mentioned Burpy, Mak Brand, Ionized 21 Consulting, Ionized LLC. 22 Any others? 23 A I think I mentioned another one as 24 well. Zaappaaz you missed. 25 Q What was that? I'm sorry. Zaappaaz?</p>
<p style="text-align: right;">30</p> <p>1 MR. BLANCHARD: Yes. 2 THE WITNESS: I think five products 3 maybe -- five companies. 4 BY MS. SCHAEFER: 5 Q Okay. Can you name them? 6 A Yes. Zaappaaz was one. Ionized was 7 the other. Burpy was the other one. Mak Brand 8 was the other one. Ionized Consulting is the 9 other one. 10 Q So is Ionized Consulting different 11 than Ionized LLC? 12 A It is. 13 Q But they both sell covered products? 14 MR. BLANCHARD: Objection. Form. 15 I'm going to have a running objection 16 to "covered products." Can I just have that so I 17 don't have to object every time? 18 MS. SCHAEFER: What's your objection 19 to "covered products"? 20 MR. BLANCHARD: Well, one of the 21 definitions is that it's healed, and they never 22 sell anything that they represented would heal or 23 treat COVID. So PPE I think is the more 24 appropriate term. 25 THE WITNESS: Medical is also in there</p>	<p style="text-align: right;">32</p> <p>1 A You didn't mention Zaappaaz. I was 2 saying Zaappaaz definitely did sell PPE products. 3 Q What about Stealth Mode? What's 4 Stealth Mode? Is that your company? 5 A Yes. Stealth Mode, I don't think it's 6 a corporation. 7 Q Is it -- Stealth Mode LLC? 8 A Stealth Mode LLC. We have Stealth 9 Mode LLC, and then we have Stealth Mode 1, 10 Stealth Mode 2, I believe. 11 Q Yes. 12 A If I can recall, I don't think they 13 sold any PPE products, and if they did, maybe 14 Stealth Mode 1 did sell products, and those 15 were -- and Stealth Mode 1 I believe does -- the 16 DBA is Sports Gear Swag and also additional 17 information, it's ran by Khalil, and I think 18 they -- well, not think. They do sell sports 19 apparel. And at that time, I think they were 20 selling fabric masks, just my recollection of 21 that. 22 Q Okay. What about Next Step 23 Investments, do you own that company? 24 A So that's just an investment group of 25 about 60 people in it. They did not have any</p>

33

1 relationships to PPE, but I am -- I own six
2 shares out of 60, I believe, something like that.
3 It's just an investment vehicle.

4 **Q Okay. Let's go through the managers**
5 **of Zaappaaz LLC. Who are they?**

6 A In terms of the corporate documents or
7 in terms of --

8 **Q Yes, the limited partners or members.**

9 A I don't know how they're defined on
10 the corporate documents. The corporate documents
11 obviously were created in 2008. But I don't know
12 how they're defined in the corporate documents
13 honestly.

14 **Q Well, let me ask you, I mean Zaappaaz**
15 **has changed forms many times. It's been a**
16 **corporation and now it's a LLC. Do you know why**
17 **it's changed forms over time?**

18 A I think it's changed maybe two times.
19 So not many times. But I believe it's now an
20 Inc. I believe -- maybe not. I'm not sure. But
21 it's just changed because of financial --
22 financial advisors telling us to change it for
23 corporate structures. Before we had individual
24 partners in the company. Now we have
25 corporations as partners in the company.

34

1 **Q All right. Well, I'll tell you, I**
2 **looked up the corporate papers, and these were**
3 **the corporate members on your organizational**
4 **documents.**

5 **There's Mak Solutions, Inc. Does that**
6 **sound right?**

7 A That is me, correct.

8 **Q That's you. And are you a**
9 **vice-president and director?**

10 A I am the president, sure. I am the
11 president of the company, I guess.

12 **Q And is your wife also --**

13 A She is.

14 **Q -- an officer and director. Is her**
15 **name Shabana Momin?**

16 A That's correct.

17 **Q And then Modi Solutions LLC?**

18 A That is my other partner, Amir Ali.

19 **Q And ZT Brands, is that another member?**

20 A That is Zishan Momin.

21 **Q Is he related to you at all or your**
22 **wife?**

23 A No. Best friend.

24 **Q What was he? Sorry. I'm sorry. Who**
25 **is Zishan Momin?**

35

1 A Zishan Momin is my best friend.

2 **Q Who's Amir Nizar Ali?**

3 A He is my cousin.

4 **Q Is there a board of directors for**
5 **Zaappaaz LLC?**

6 A No.

7 **Q Was there ever a time between March**
8 **2020 and, let's say, December 2020 where you**
9 **employed more than 20 customer service**
10 **representatives?**

11 MR. BLANCHARD: Objection. Form.

12 THE WITNESS: We never employed in
13 terms of --

14 BY MS. SCHAEFER:

15 **Q I -- I don't mean to interrupt. I'm**
16 **sorry. I interrupted.**

17 **You never employed -- you**
18 **independently contracted with the Khans for those**
19 **people?**

20 A To a company, yes.

21 **Q Did there ever come a time where you**
22 **were using more than 20 of the Khan's customer**
23 **service representatives?**

24 **(Reporter clarification.)**

25 BY MS. SCHAEFER:

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1 **Q The question is, between March 2020**
2 **and December 2020, were you using more than 20 --**
3 **at any point more than 20 customer service**
4 **representatives?**

5 MR. BLANCHARD: Objection. Calls for
6 speculation.

7 You can answer.

8 THE WITNESS: I do not know. We could
9 have been 20. We could have been 15. It varied.
10 COVID was going around. So I think some took
11 leaves. So I cannot -- I cannot give you an
12 exact number.

13 BY MS. SCHAEFER:

14 **Q But you -- during this period,**
15 **however, you were overseeing Zaappaaz LLC and its**
16 **operation?**

17 A I want to clarify. I was -- I was --
18 I was taking an executive role. We had Khalil on
19 during this period who was handling day-to-day
20 operations. So I just want to clarify. I don't
21 know what you mean by "overseeing." Just want to
22 clarify.

23 **Q Throughout March 2020 and December**
24 **2020, Khalil was handling the day-to-day**
25 **operations?**

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1 A That is correct.
 2 **Q But he was still reporting to you?**
 3 A That is correct.
 4 **Q Was he autonomous in terms of making**
 5 **business decisions?**
 6 A That's a very wide term, but I don't
 7 know -- I don't know what you mean in making
 8 business decisions.
 9 **Q During this time, who was responsible**
 10 **for dealing with customer complaints?**
 11 A The CSRs.
 12 **Q Who did they report to?**
 13 A Eroze and Fatima.
 14 **Q Who did the Khans report to?**
 15 A To Khalil.
 16 **Q And they didn't report to you?**
 17 A Absolutely they reported to me. Not
 18 them. Khalil reported to me. But I obviously
 19 had direct communication with Eroze and Fatima as
 20 well.
 21 **Q So, throughout this period again, I'm**
 22 **going to say March 2020 to December 2020, you**
 23 **were aware of customer service issues, even**
 24 **though you weren't handling the day-to-day?**
 25 A Absolutely, yes.

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1 **Q I have seen many addresses tied to**
 2 **Zaappaaz LLC, so I'm going to read the address**
 3 **and you tell me what it represents.**
 4 **So on the certificate of conversion of**
 5 **a corporation for Zaappaaz, an address of 35**
 6 **Cadence Court, Richmond, Texas is listed. What**
 7 **address -- what is that address?**
 8 A That's my home.
 9 **Q Is that a business address? Do you**
 10 **use that as a business address?**
 11 A Not really. But it is my home.
 12 **Q Okay. 1305 El Camino Village Drive?**
 13 A That is also my home or my dad's home,
 14 I guess. But we all live in a joint family. So
 15 for simple sake, you could say it's my home or
 16 was my home.
 17 **Q So 35 Cadence is where you currently**
 18 **live?**
 19 A That is correct.
 20 **Q And 1305 El Camino is a family home,**
 21 **and your father is in the home?**
 22 A No. We used to live there. We moved
 23 together to Cadence Court. The 1303 was our
 24 first address, and then we bought 1305. 1303 is
 25 where we started the company from, I believe, and

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1 1305 we no longer own. 1303 is under contract,
 2 and possibly we'll no longer own either.
 3 **Q What about 16107 Kensington Drive**
 4 **Suite?**
 5 A It's an UPS store. I don't own the
 6 UPS store. I own a mailbox in the UPS store or I
 7 rent a mailbox in the UPS store.
 8 **Q Okay. 1002 Gemini Street?**
 9 A That was from 1303 when we went from a
 10 home business to our first office, and we no
 11 longer --
 12 **Q Do you still use --**
 13 A We're no longer there.
 14 **Q And then 12505 Reed Road, Suite 110,**
 15 **Sugarland?**
 16 A That is our main headquarters for many
 17 of our businesses, yes.
 18 **Q Is that where your office is?**
 19 A There's no real office. But that's
 20 where -- I am there daily, yes. There is --
 21 sure. Yes. There's no office. Put it that way.
 22 **Q Is that also the address of this U.S.**
 23 **warehouse --**
 24 A That is correct.
 25 **Q -- that you mentioned? Okay. And I**

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1 **mean, what kind of -- is it a suite? Is it a**
 2 **warehouse? Is it a building? How much of it do**
 3 **you own?**
 4 A I believe it's about 200,00 square
 5 feet, and we own 20,000 square feet of it.
 6 **Q Is "we" all your businesses? Is it**
 7 **just Zaappaaz?**
 8 A All. Everything.
 9 **Q And it -- okay. And everything, does**
 10 **it include the list of other businesses you own**
 11 **that sell covered products?**
 12 A Well, we also -- we also short-term
 13 lease other warehouses down the street as well
 14 for space purposes.
 15 **Q And what address is that?**
 16 A Something Executive Drive. I don't
 17 recall the address.
 18 **Q Do you share the 12505 Reed Road**
 19 **address with other of your companies that don't**
 20 **sell covered products?**
 21 A Yes. 12505 Reed Road, Suite 110, yes.
 22 **Q How -- do all the companies split**
 23 **rent?**
 24 A In some form or fashion, yes.
 25 **Q And so when you say, "in some form or**

<p style="text-align: right;">41</p> <p>1 fashion," can you elaborate on that?</p> <p>2 A Yeah. Many companies don't use</p> <p>3 certain amount of space, don't use an office</p> <p>4 space. So we come to a consensus as to what the</p> <p>5 rent should be.</p> <p>6 Q Okay. So I want to talk now a little</p> <p>7 bit more about employees or independent</p> <p>8 contractors, vendors, some of the vendors you</p> <p>9 work with. So we started talking about</p> <p>10 employees, and tell me if this is correct based</p> <p>11 on what you testified to so far. From -- in</p> <p>12 January/February of 2020, you decided to -- you</p> <p>13 decided to give Khalil responsibilities over the</p> <p>14 day-to-day management of the Zaappaaz LLC and he</p> <p>15 became an employee; is that correct?</p> <p>16 A The dates I don't know, but yes, it's</p> <p>17 around that period. But yeah, that is the</p> <p>18 intention.</p> <p>19 Q And from that period until he left,</p> <p>20 which I think you said was it three or four</p> <p>21 months ago?</p> <p>22 A Who left? Khalil?</p> <p>23 Q Yes.</p> <p>24 A About four or five months ago, yes.</p> <p>25 Q Up until the time he left, you and</p>	<p style="text-align: right;">43</p> <p>1 A You can just say customer service rep.</p> <p>2 Q Okay. And did they also provide -- is</p> <p>3 this in a call center? Are these customer</p> <p>4 service agents in a call center?</p> <p>5 MR. BLANCHARD: Objection. Calls for</p> <p>6 speculation.</p> <p>7 THE WITNESS: It's -- it's -- it's an</p> <p>8 isolated building. It's an isolated office. A</p> <p>9 call center gives a perception that there are a</p> <p>10 lot of other companies in there. This is an</p> <p>11 isolated office building.</p> <p>12 BY MS. SCHAEFER:</p> <p>13 Q Okay. So they own an office building?</p> <p>14 A They rent an office building, yes.</p> <p>15 Q And do the customer representatives</p> <p>16 come to that office building to provide their</p> <p>17 customer services?</p> <p>18 A They used to come --</p> <p>19 Q I'm trying to figure out --</p> <p>20 A I mean, we got to clear the timelines.</p> <p>21 I don't want to really get it wrong here. They</p> <p>22 did come to the office building. That was the</p> <p>23 purpose of them for the office building, but if</p> <p>24 you're talking about during COVID, everything was</p> <p>25 shut down. So I just want to make sure we're</p>
<p style="text-align: right;">42</p> <p>1 Khalil were the only employees of Zaappaaz LLC;</p> <p>2 is that correct?</p> <p>3 A That is correct.</p> <p>4 Q Okay.</p> <p>5 A No. Let me correct that. There was</p> <p>6 an overlap of Kaif and Salman doing the</p> <p>7 transition. So yes, take that into account as</p> <p>8 well.</p> <p>9 Q When was that transition again?</p> <p>10 A Four to five months ago. I don't know</p> <p>11 the exact date.</p> <p>12 Q So you mentioned Fatima Khan. Where</p> <p>13 does she live?</p> <p>14 A In India.</p> <p>15 Q And what's the name of the company --</p> <p>16 her company that you use?</p> <p>17 A Stealth Mode Private Limited.</p> <p>18 Q And do you have an interest in that</p> <p>19 company?</p> <p>20 A I have no interest in the company.</p> <p>21 Q And do you have any relation to Fatima</p> <p>22 Khan --</p> <p>23 A I have no relationship --</p> <p>24 Q -- other than as a vendor? And what</p> <p>25 services did she provide you?</p>	<p style="text-align: right;">44</p> <p>1 kind of right on the timeline.</p> <p>2 Q Okay. So let's talk about that</p> <p>3 timeline. So let's start with January. Are</p> <p>4 they -- as far as you know, are the customer</p> <p>5 service representatives working?</p> <p>6 A They are working, yes, at the office,</p> <p>7 yes.</p> <p>8 Q Okay. February 2020, are they working</p> <p>9 for you at the office?</p> <p>10 A That is correct, yes. I'm not sure</p> <p>11 honestly. Let's put it that way. February/March</p> <p>12 is a mixture of dates I do not know. I know</p> <p>13 things started going down around mid-March.</p> <p>14 That's what I can tell you. I don't know when</p> <p>15 the office closed down.</p> <p>16 Q And when you say "going down," we're</p> <p>17 talking about the global COVID pandemic, just to</p> <p>18 be clear?</p> <p>19 A That is correct.</p> <p>20 Q Okay. So March, at some point in</p> <p>21 March, the operation shut down?</p> <p>22 A Maybe April. I apologize. I don't</p> <p>23 know the numbers. I think -- if I had to make an</p> <p>24 educated guess, I think it was around maybe</p> <p>25 mid-April is when we -- when the government shut</p>

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1 down -- shut down everything in India.

2 **Q Okay. And so at that point, no one**
3 **was working? No customer service representatives**
4 **were working for Zaappaaz at that point around**
5 **March?**

6 A Not working in the sense not being
7 employed, no. They were employed still. They
8 were still getting paid. But limited resources,
9 yes. Limited resources. Maybe they didn't have
10 a computer at the house. Maybe they did have a
11 computer and they were just using chat services.
12 They were making use of their time with the
13 resources that they had.

14 **Q Okay. So people -- these customer**
15 **service agents were providing services, but they**
16 **were limited. Is that what you're saying? I**
17 **just want to know whether the services shut down**
18 **completely or whether you're saying that they**
19 **were limited because people maybe didn't have**
20 **computers. But were some people able to continue**
21 **providing customer service?**

22 A Yeah. I think maybe it's a cultural
23 misunderstanding here. So many of these people
24 are not -- in India, many of the people don't
25 have computers at the house, the luxury that we

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1 have here. So you have to kind of understand
2 that. They don't have the technology
3 advancements that we have here, nor do they have
4 Internet services at the house. So those are the
5 little cultural differences that we probably need
6 to put into perspective.

7 So yes, there might have been some
8 that were fortunate to have Internet, some that
9 were fortunate to have the computer. So I hope
10 you can put that into perspective to kind of
11 understand the question. Yes, some were limited
12 into what they could do and some were completely
13 shut off. They could not do anything because of
14 the resources, they did not have anything.

15 **Q Okay. So are you saying that -- I**
16 **understand people had limited resources. It's**
17 **not like it is here in terms of computers.**

18 **But did there come a time -- and now**
19 **we're around March -- where there was just no**
20 **customer service being provided by the Khans'**
21 **employees?**

22 A It's possible. Maybe -- maybe a day.

23 **Q Maybe a day. Now let's go to April.**
24 **Is it the same situation in April?**

25 A I'm sorry. I wasn't referring to

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1 March in that case. I was just referring to in
2 general throughout the company. So that was not
3 a timeline specific question. Maybe we were down
4 a day with zero responses.

5 **Q Okay. So when you're talking about**
6 **maybe you were down a day, you're talking about**
7 **the entire company; you're not just talking about**
8 **what's going on in India?**

9 MR. BLANCHARD: Objection. Form.

10 THE WITNESS: I mean, India was --
11 India was my communication to my customers.
12 There was nothing else. So if there was a
13 complete shutoff, it was probably a day, which I
14 really doubt. If there was, it was probably a
15 max of a day during that transition with the
16 government shut down.

17 BY MS. SCHAEFER:

18 **Q And what about -- okay. So I**
19 **understand that.**

20 **How about the limited resources**
21 **created by the pandemic, how long did that last?**

22 MR. BLANCHARD: Objection. Form.

23 THE WITNESS: How long what lasted?
24 Which resources?

25 BY MS. SCHAEFER:

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1 **Q So we just spoke about, you know,**
2 **India shut businesses down. The Khans' building**
3 **was closed. People -- customer service**
4 **representatives were working from home, but**
5 **obviously they didn't have the same resources**
6 **that they had had when they were in the Khans'**
7 **building, because of what you said, not everyone**
8 **has computers or you can only use one chat**
9 **function but maybe not another function that's**
10 **used to communicate.**

11 **So how long did those limitations last**
12 **with respect to limited resources for the**
13 **customer service representatives? Did it last --**

14 MR. BLANCHARD: Objection. Form.

15 THE WITNESS: I would say no more than
16 probably -- limitations were always there because
17 it was constant things that were happening that
18 we did not anticipate. But I don't know how to
19 give you an answer to that. I mean, we -- we
20 worked on day-to-day basis to improve -- for
21 example, we sent FedEx shipments to people's
22 houses that could accommodate computers. We sent
23 them computers. People that could accommodate
24 cell phones, we sent them cell phones. So we
25 worked with technology as circumstances were

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1 brought to us.

2 BY MS. SCHAEFER:

3 **Q Okay. And so I understand it's hard**
4 **to say how long these limitations were in place**
5 **because COVID continues to affect our lives.**

6 **In April 2020, were you still dealing**
7 **with these limited resources because of COVID?**

8 A 100 percent.

9 **Q What about May 2020?**

10 A Much less.

11 **Q But still dealing with limited**
12 **resources?**

13 A Well, resources --

14 **Q I'm talking about the customer**
15 **service --**

16 A Yeah, but --

17 **Q I'm talking about the customer service**
18 **representatives right now.**

19 A Yeah. I will also consider resources
20 as customer service reps getting sick. That's
21 also a resource for me. So if they are down,
22 then that's also a resource.

23 So again, it's very vague to kind of
24 just put it in terms of just technology. There's
25 also human resources that we were also facing as

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1 COVID was hitting those parts of town. So it's
2 really hard to tell you. But the progression
3 line was moving upwards. Let's put it that way.
4 A day over day.

5 **Q All right. But you were still**
6 **experiencing limitations created by COVID, be it**
7 **technologically or be it health wise. How about**
8 **now we're June 2020.**

9 A My answer is the same. If you still
10 ask me to make it simple, we are still facing
11 limitations as of right now. I guess the best
12 way to explain it is the progression was moving
13 onwards. But even as today, we are still facing
14 limitations.

15 **Q Okay.**

16 MR. BLANCHARD: Michelle, can we take
17 a break when you get to a good point?

18 MS. SCHAEFER: Yeah, I have a
19 section -- I want to go through some other
20 employees. Can I just finish those and then we
21 can take a break?

22 MR. BLANCHARD: Sure.

23 BY MS. SCHAEFER:

24 **Q So we talked Fatima Khan and Eroze**
25 **Khan you testified is her husband who also owns**

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1 the company.

2 **Did you -- I've seen e-mails between**
3 **you and Fatima Khan, but I have not seen any**
4 **documents with Eroze Khan's name on it. How did**
5 **you communicate with the Khans?**

6 A They're the same people to me.

7 **Q Do they share an e-mail address?**

8 A No. They do not share an e-mail
9 address, no.

10 **Q How do you communicate with them?**

11 A By e-mail, by chat, by call.

12 **Q With both of them?**

13 A I mean, I could talk to them
14 separately, but if I tell something to Fatima,
15 it's the same thing as me telling Eroze. I hope
16 that answers your question. I'm not
17 understanding what you're asking me.

18 **Q Well, I guess my question is, I don't**
19 **understand I guess why we don't have any e-mails**
20 **with his name on them.**

21 A You should. You should.

22 Eroze.Khan786 is the e-mail.

23 **Q Okay. Well, I will double-check, but**
24 **I don't think I have seen e-mails with his name**
25 **on them. But we'll check, and we can follow-up**

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1 **with Mr. Blanchard about that.**

2 **So we talked about Khalil. Did**
3 **Khalil -- I don't have a question there. Sorry.**

4 **Who is Kyle?**

5 A Kyle is Khalil.

6 **Q And why is he representing that he's**
7 **Kyle?**

8 MR. BLANCHARD: Objection. Form.
9 Calls for speculation.

10 THE WITNESS: All my employees have
11 names that are easy to be pronounced. It's -- it
12 just saves time over the phone, let's put it that
13 way, rather than "Hey, how do you spell Khalil?"
14 I think it's easy to spell Kyle than Khalil.

15 BY MS. SCHAEFER:

16 **Q So whenever we see -- you're producing**
17 **a lot of documents with Kyle's name. Whenever we**
18 **see Kyle, we can assume that's Khalil; is that**
19 **right?**

20 A That is correct.

21 **Q And I have seen documents where he**
22 **refers to himself as the supervisor of the**
23 **warehouse. Was he the supervisor?**

24 A That is correct.

25 **Q Who is Priyank Vaish?**

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1 A He's our developer.
 2 **Q What's a developer?**
 3 A He is the guy that can change anything
 4 on the website, who does coding for the site.
 5 **Q When did he start working for you?**
 6 A He was there from the start of the
 7 company, I believe, in 2008.
 8 **Q And he is not an employee?**
 9 A He is, again, contracted through the
 10 Stealth Mode Limited.
 11 **Q Okay. To the extent changes were made**
 12 **to the website between March 2020 and August 4th,**
 13 **2020, would he have made those changes?**
 14 A Absolutely.
 15 **Q And who would have given him the**
 16 **instruction on the -- who would have told him**
 17 **what changes to make?**
 18 A During March, Khalil was probably
 19 giving the frontline of giving all the
 20 instructions, but I would have also spoken to him
 21 as well.
 22 **Q What about April 2020?**
 23 A Same.
 24 **Q May?**
 25 A Same.

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1 **Q 2020, June 2020?**
 2 A Same.
 3 **Q August 2020?**
 4 A I still have communications with
 5 Priyank as well. I think it's the same
 6 throughout -- whatever month you picked.
 7 **Q Okay. Who is Mike@Wrist-Band.Com?**
 8 A There is no Mike. Mike -- so just to
 9 give you a perspective of how these e-mails are
 10 structured, Azim is the main e-mail, and they
 11 have other aliases under the same e-mail. It's
 12 the same e-mail box, but it's different aliases
 13 under that same e-mail box. So there's not
 14 different e-mail log-ins. Azim is there. Kyle
 15 is there. Zishan is there. Amir is there. It
 16 just depends on who you want to choose to send a
 17 reply to. But Mike is just an alias in case if a
 18 customer wanted to message a supervisor, this
 19 would come straight into that mailbox which is
 20 handled -- it's our inbox. It's mine and
 21 Khalil's inbox. Let's put it that way.
 22 **Q Okay. So just -- so I understand, so**
 23 **we have a Mike e-mail, and to the extent e-mails**
 24 **get sent to Mike, you are receiving them; is that**
 25 **right?**

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1 A That is correct.
 2 **Q Khalil is receiving them?**
 3 A That is correct.
 4 **Q What about -- you said there were two**
 5 **other?**
 6 A Nobody else.
 7 **Q And I didn't get --**
 8 A I don't think anyone else -- those are
 9 aliases in there, but they're not receiving the
 10 e-mails. Me and Khalil. If Khalil sends an
 11 e-mail out, I can see it. If Khalil receives an
 12 e-mail, I can see it. If I receive an e-mail,
 13 Khalil can see it. If I send an e-mail, Khalil
 14 can see it, if that kind of makes sense.
 15 **Q So -- yeah. You use it**
 16 **interchangeably. Do you use it interchangeably?**
 17 A Absolutely.
 18 **Q Between you and Khalil?**
 19 A Even as of today, yes.
 20 **Q Okay. And I guess I don't understand**
 21 **when you say there's different -- did you say**
 22 **aliases?**
 23 A Correct.
 24 **Q And you said -- I heard you mention**
 25 **two other names and then --**

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1 A There's actually a lot more. There's
 2 a lot more names in there. There's Zishan.
 3 There's Amir when they used to have e-mail
 4 access, which is back eight, nine years ago,
 5 which we never removed. But there's a lot of
 6 other aliases.
 7 But we do own a lot more domains. So
 8 if you send it to Azim@Wrist-Bank.com or
 9 Azim@CustomLanyard.com, those are also considered
 10 aliases. So it all comes into that one e-mail
 11 box.
 12 **Q Okay. What about -- who's Sharez**
 13 **Prasla?**
 14 A Sharez is my partner in one of the
 15 other companies.
 16 **Q What company is it, Ionized?**
 17 A He is a partner in Ionized, but there
 18 is another company that I was a partner in, but I
 19 am no longer a partner in that company. But I
 20 don't recall the name. It's -- is it A brand or
 21 something like that, I believe.
 22 MR. BLANCHARD: I can help with that,
 23 if I can. ASA Brands LLC.
 24 BY MS. SCHAEFER:
 25 **Q Does he have any role in Zaappaaz?**

<p style="text-align: right;">57</p> <p>1 A At some point he did, yes.</p> <p>2 Q Okay. What was that role?</p> <p>3 A That was a -- we had -- we had a</p> <p>4 partnership between Ionized Consulting -- we had</p> <p>5 a partnership initially with Ionized Consulting</p> <p>6 and Zaappaaz, which started maybe around May,</p> <p>7 June, or something around that period. We had a</p> <p>8 working partnership in terms of sales.</p> <p>9 Q Sales of covered products?</p> <p>10 A Sales of only covered products,</p> <p>11 correct.</p> <p>12 Q What kind of arrangement?</p> <p>13 A Ionized Consulting, I believe, took 40</p> <p>14 percent of our profits, I believe, and Zaappaaz</p> <p>15 kept 60.</p> <p>16 Q And how -- were you both jointly -- I</p> <p>17 mean fulfilling covered products, selling? What</p> <p>18 was the collaboration exactly?</p> <p>19 A The collaboration was to bring on more</p> <p>20 resources to manage customers that we were</p> <p>21 getting.</p> <p>22 Q And so you were both providing -- both</p> <p>23 companies were sharing resources to provide</p> <p>24 customer service to consumers purchasing covered</p> <p>25 products?</p>	<p style="text-align: right;">59</p> <p>1 orders, with shipping covered products ordered,</p> <p>2 and fulfilling the covered products ordered; is</p> <p>3 that right?</p> <p>4 A Customer management. I mean, it was</p> <p>5 to help wherever help was needed. That's what</p> <p>6 the agenda was.</p> <p>7 Q Right. But what about the flip side,</p> <p>8 because Ionized, as I understand, is also</p> <p>9 selling -- is a separate company according to you</p> <p>10 and it's also selling covered products. Did it</p> <p>11 need Zaappaaz help? In other words, was Ionized</p> <p>12 going through the same COVID-related problems</p> <p>13 with its customers and their orders?</p> <p>14 A Did it need help? I don't think they</p> <p>15 needed help, but it was a beneficial partnership</p> <p>16 for both of us.</p> <p>17 Q And how did it benefit them outside</p> <p>18 of, you know, they got paid?</p> <p>19 A That was the benefit. They got paid.</p> <p>20 Q That was the benefit?</p> <p>21 A That was the benefit.</p> <p>22 Q That was the benefit. Okay.</p> <p>23 A It was a financial benefit for them.</p> <p>24 It was always -- the thing they were giving up</p> <p>25 was time.</p>
<p style="text-align: right;">58</p> <p>1 MR. BLANCHARD: Objection. Misstates</p> <p>2 prior testimony.</p> <p>3 THE WITNESS: Customer -- customer</p> <p>4 service was already being handled in India. I</p> <p>5 think the reason we brought on Ionized Consulting</p> <p>6 was because of our whole business model was</p> <p>7 changing from overseas shipping to customers to</p> <p>8 warehouse shipping to customers, and obviously it</p> <p>9 was just me and Khalil who were the only</p> <p>10 operators here. So managing that was becoming a</p> <p>11 little difficult, so we brought on Ionized</p> <p>12 Consulting to help us with the domestics -- to</p> <p>13 help us with the warehouse aspect of processing</p> <p>14 orders, yes.</p> <p>15 BY MS. SCHAEFER:</p> <p>16 Q Oh, okay. I see. So they were</p> <p>17 providing services to Zaappaaz. It wasn't that</p> <p>18 Zaappaaz was providing services to Ionized</p> <p>19 customers?</p> <p>20 MR. BLANCHARD: Objection to form.</p> <p>21 BY MS. SCHAEFER:</p> <p>22 Q Okay. I'll try to clarify. So based</p> <p>23 on your testimony, what it sounds like to me is</p> <p>24 that you brought Ionized in to help Zaappaaz</p> <p>25 with, you know, orders, with covered products</p>	<p style="text-align: right;">60</p> <p>1 Q Were you -- was Zaappaaz buying</p> <p>2 inventory for covered products and then selling</p> <p>3 that inventory to Ionized customers?</p> <p>4 A We weren't selling it. We were just</p> <p>5 distributing back to them, yes. So it made it --</p> <p>6 I am the common denominator in most companies, in</p> <p>7 all of them actually. I am -- I have some</p> <p>8 ownership stake in it. So if -- rather than</p> <p>9 purchasing separate inventory for Ionized,</p> <p>10 separate inventory for Spectra or anybody else,</p> <p>11 it made since that if we're all selling the same</p> <p>12 product. At some point Ionized was just</p> <p>13 purchasing all of it and then we were splitting</p> <p>14 according to what we were using or Zaappaaz was</p> <p>15 purchasing all of it and we were -- we were</p> <p>16 distributing it accordingly. But it was on a</p> <p>17 cost-to-cost basis, yes.</p> <p>18 Q And were you -- in terms of finances,</p> <p>19 would the companies pay each other back for --</p> <p>20 A Yes.</p> <p>21 Q -- the inventory or for the help they</p> <p>22 were providing?</p> <p>23 A Absolutely.</p> <p>24 Q Who is -- one more question.</p> <p>25 There's Ionized LLC and Ionized</p>

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Consulting LLC. Who runs Ionized LLC? Who's in control and runs -- manages the company?

A There's three people that manage it and those specific roles. It's me. It's Sharez, and it's Alishah Momin. Alishah Momin is my brother-in-law.

Q That's Ionized LLC?

A That's Ionized LLC, correct.

Q And then who owns -- I'm sorry. Who manages Ionized Consulting LLC?

A I am a partner in it. Zishan Momin is a partner in it. Asif Momin is a partner in it. Sharez Prasla is a partner in it, and Alishah Momin is a partner in it.

Q All right. Let's move on to Chandler@Wrist-Band.com?

A Which one. I'm sorry?

Q Chandler@Wrist-Band.com.

A Okay. Sure.

Q It might be Chandler Liu?

A Yes.

Q Who is he?

A He is -- he is our vendor from day one when we started wristbands. The reason we started, we created an e-mail for him, and I

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don't think there's many activities happening in that e-mail. But the reason we created that e-mail for him was he -- we were getting -- since we were supplying a lot of wristband products, promotional products on our website, a lot of these vendors from China would reach out to us, which we had no interest in changing vendors. But Chandler, who is a sourcer, reaches out to a lot of these different companies in China. So it made beneficial sense for him. And he's like if you can create me an e-mail to have all those people that are contacting you to go to my e-mail. So that's why the e-mail was created.

Q I'm sorry. Say that. I didn't understand why was the e-mail created.

A First, Chandler is our guy who produces promotional products in China. He's been there from day one. Now, we are -- we are providing wristbands. Now, if an ex-company wants to message me and be like "Hey, we can also provide you wristbands at a lower cost," or "We're also providing wristbands in China and we can send it to your customers," whatever, we had no interest in changing our vendors in China.

But for Chandler, it made economical

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sense because that's what he does in China. He actually subcontracts out these little factories in China to process our orders. So he deals with them on a micro level, where we just deal with Chandler directly, and he handles all it.

So if a company does reach out to us, we had no interest in reaching back out to them, but for Chandler, it made sense because he could build a better network of these companies. So we created an e-mail for him so we would forward those e-mails to him or those e-mails would go straight to him.

Q And so when did you start working with Chandler?

A When we first started our company.

Q And he's -- would you call him a trading agent?

A Yeah. They're a trading company.

Q And so they connect you with vendors in China?

A They don't connect me with their vendors, no. They process our orders. I have no relationship with the suppliers that they use.

Q Say that -- okay. I'm sorry. Say that again. You have no relationship --

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A Let's consider him a broker. He's a broker.

Q So tell me what a broker does.

A Well, my relationship is I can reach as far as to Chandler. I don't reach to his network underneath him, if that clarifies it.

Q You don't deal with them?

A Yeah. If there is an issue with an order, I do not reach the manufacturers. I reach out to -- I reach out to Chandler. He reaches out to his networks or wherever he gave the order to.

Q And whether it was before the pandemic or during the pandemic, has that always been the relationship with you and Chandler in terms of the vendors?

A Mostly, yes.

Q Sales@Wrist-Band.com, who gets those e-mails?

A That is a catch-all -- that is a catch-all e-mail. Basically if you don't put an e-mail that does not match our company -- like for example, if you put in Azim M, it will come to my mailbox. But if you put Azim M1, it will go -- anything else that is not a defined e-mail,

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1 it will all go to Sales@Wrist-Band.com. It's a
2 catch-all e-mail. But that is the e-mail that is
3 handled by the India office, the CSRs.

4 **Q I see. And are those e-mails going to**
5 **the CSRs, or are those e-mails going to Fatima**
6 **and Eroze?**

7 A It's the same.

8 **Q Okay. How about**
9 **Accounting@Wrist-Band.com?**

10 A I believe that goes to sales as well.

11 **Q And when you say "sales," is that the**
12 **CSRs?**

13 A Yes.

14 **Q And the Khans?**

15 A Yes.

16 **Q I just want -- we'll take a break**
17 **after this. I just want to show you one exhibit**
18 **before a break.**

19 **(Deposition Exhibit Number 2 was**
20 **marked for identification and attached to the**
21 **transcript.)**

22 BY MS. SCHAEFER:

23 **Q Can you see this unsworn declaration**
24 **of Azim Makanojiya?**

25 A Okay.

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1 **Q Do you see it?**

2 A Yes, I do.

3 **Q Okay. So this was -- when we filed**
4 **our case and we entered into a preliminary**
5 **injunction, part of the requirements were you had**
6 **to send the preliminary injunction to employees**
7 **or agents who participated in the alleged**
8 **conduct.**

9 **So Mike provided this list to us, and**
10 **we went over these. But these are people that**
11 **you sent the order to, and I'm wondering if these**
12 **are people that are all employed by the Khans.**

13 A That covers more than employees. That
14 covers our contract workers as well.

15 **Q Okay. So this -- I'm sorry. Tell me**
16 **what this list of people includes in terms of**
17 **services to Zaappaaz?**

18 A A, it includes all our CSRs; B, it
19 includes our managers of our CSRs; C, includes me
20 and Kyle; D is our contractor who handles our
21 marketing side of Google Adwords specifically.

22 **Q Who is that?**

23 A D.

24 **Q I'm sorry. Who manages the Google?**

25 A Diran, the letter D, Diran.

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1 **Q Where do you see -- I'm sorry. Where**
2 **do you see letters?**

3 A I'm on point number 5, Page 2.

4 **Q I'm sorry. I'm looking at a**
5 **three-column spreadsheet.**

6 A Okay.

7 **Q Do you see that?**

8 A Yes.

9 **Q I guess are you -- I always forget.**
10 **Are you able to navigate by yourself?**

11 MR. BLANCHARD: I'm navigating for
12 him, Michelle.

13 MS. SCHAEFER: Okay. Do you -- are
14 you able to navigate, and I don't see what you
15 do, Mike?

16 MR. BLANCHARD: I don't know. So I
17 was looking at Page 2. I don't know what you're
18 seeing.

19 MS. SCHAEFER: So my screen -- I'm
20 looking at the list of 39 people.

21 MR. BLANCHARD: Okay. That's up now.

22 MS. SCHAEFER: Okay. Can you see me
23 scrolling or no?

24 MR. BLANCHARD: No. Well, I'm now
25 looking at that spreadsheet, and I'm wondering

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1 who these people are.

2 THE WITNESS: These look like there
3 are -- they are a mixture of both U.S. and --
4 U.S. and India, both.

5 BY MS. SCHAEFER:

6 **Q Who are U.S.?**

7 A Aqil Momin, Aroofa, Areesha, Faizan,
8 Shaaz. Basically the bottom ones look most like
9 the U.S. ones.

10 **Q But are they employees?**

11 A They're contracted because we hired
12 them to pick up the CSR calls when India was
13 down. So I think they were there for a while.

14 **Q When did you hire them?**

15 A A progression of April to May, June.

16 **Q And when did you stop using them?**

17 A Various times. They trickled off as
18 we started to steady on this. I can get you the
19 data if that's what you need.

20 **Q And you hired U.S. CSRs because of**
21 **COVID's impact on your India CSRs?**

22 A That's correct.

23 MS. SCHAEFER: Okay. If we want to
24 take a break, we can take a break now.

25 (A brief recess was taken.)

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1 BY MS. SCHAEFER:

2 **Q I want to talk about pre-pandemic**
3 **relations with China. So when did you start**
4 **working with people in China with respect to**
5 **Zaappaaz?**

6 A 2008 when we started Zaappaaz.

7 **Q And what trading agent did you use**
8 **when you started?**

9 A Rating agent?

10 **Q Working with -- trading or broker.**

11 A Chandler.

12 **Q So when you first started sourcing**
13 **products from China, you dealt with Chandler Liu,**
14 **and we will call him -- is it correct to call him**
15 **a broker?**

16 A I'll define it if it's more -- if you
17 need more clarity. But yes, he is the guy that
18 we work with to process our orders, and he
19 figures it out within his own business processes.
20 I don't know how he does it. But I assume he
21 contracts out different factories within his
22 jurisdiction to process our orders, but we
23 directly deal with Chandler.

24 **Q How did you meet him?**

25 A Virtually online.

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1 **Q Who made the introduction?**

2 A Alibaba.

3 **Q And how did Alibaba know him?**

4 A No. Alibaba is a website where --

5 **Q Sorry.**

6 A That's okay.

7 **Q Alibaba. So were you just searching**
8 **on Alibaba and his product came up or his name?**
9 **Is that how you found him?**

10 A Correct.

11 **Q Is his company called Guangzhou**
12 **International Trading Company Limited?**

13 A I think he has a couple. Something My
14 Speed as well. But yeah, that is one of them.

15 **Q Okay. And the one I mentioned is the**
16 **one identified in Rosemary Coates' report, which**
17 **is why I listed it. But you're saying he owns a**
18 **couple of companies?**

19 A I believe so.

20 **Q And -- okay. Did you interview other**
21 **brokers before you started working with Chandler**
22 **Liu?**

23 A We did.

24 **Q And how did you pick him?**

25 A Gut feeling.

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1 **Q And you testified about this, but**
2 **describe again the services that his company or**
3 **companies provide to Zaappaaz.**

4 A I mean, he can provide any services
5 that you tell him to do. He -- I mean, his main
6 core is to provide promotional products and
7 deliver them to our customers. That is his main
8 -- pre-COVID, that's what his main job was.

9 **Q Okay. And he -- did he source the**
10 **product for you?**

11 A Which products?

12 **Q In other words, okay, so prior to**
13 **selling covered products and prior to the**
14 **pandemic, what was Zaappaaz selling?**

15 A Promotional products.

16 **Q And you obtained the promotional**
17 **products from Chandler's suppliers; is that**
18 **right?**

19 A Ninety percent of it, yes, but there
20 were other vendors as well.

21 **Q Oh, okay. So 90 percent pre-pandemic**
22 **of suppliers are through Chandler. And does he**
23 **have the relationship with the vendors?**

24 A I do not know that.

25 **Q That are -- what's that?**

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1 A I don't know.

2 **Q You don't know who has -- well, who**
3 **has the relationship with the vendors that you're**
4 **sourcing from?**

5 A You asked me if Chandler has a
6 relationship with the vendors. I don't know if
7 they're brothers or sisters.

8 **Q I'm sorry. Let me -- I didn't mean --**
9 **let me clarify. When I say a relationship, I**
10 **mean a business relationship, not a familial**
11 **relationship.**

12 A To the extent -- my relationship goes
13 as far as to Chandler. That's the furthest
14 extent that -- from Zaappaaz side we only reach
15 as far as to Chandler. Anything under him, we
16 don't know who he deals with.

17 **Q So you -- you don't have a contract --**
18 **direct dealings with the suppliers or the**
19 **manufacturers of the promotional products?**

20 A I consider Chandler as my
21 manufacturer.

22 **Q Okay. Does he also -- in addition to**
23 **sourcing products from vendors, does he also have**
24 **a manufacturing plant?**

25 A From the looks of it, it seems as he

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1 does. I am not sure what his financial structure
2 or his structure is. I honestly do not know.

3 **Q So you -- okay. So you rely on him to**
4 **deal with suppliers?**

5 MR. BLANCHARD: Objection. Form.
6 You can answer.

7 THE WITNESS: I rely on him to process
8 my orders, yes.

9 BY MS. SCHAEFER:

10 **Q To talk with whom?**

11 A My orders.

12 **Q Did you say talk or take your orders?**

13 A Process my orders.

14 **Q So in other words -- well, we'll get**
15 **to that -- I'll ask you that question in a**
16 **minute.**

17 **So in terms of finding manufacturers**
18 **or vendors to sell his promotional products, you**
19 **relied on Chandler to find those manufacturers?**

20 MR. BLANCHARD: Objection to form.

21 THE WITNESS: Ninety percent --

22 BY MS. SCHAEFER:

23 **Q Do you have any --**

24 A Ninety percent of --

25 **Q Did you have any role in contacting or**

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1 **this is pre-pandemic, who would package the goods**
2 **for the consumer?**

3 A Ninety-nine percent would be packaged
4 by Chandler's team in China.

5 **Q And who would ship it?**

6 A Chandler.

7 **Q And who provided, I guess, the**
8 **production oversight of these products as far as**
9 **you know?**

10 A Production oversight, I don't know.
11 Chandler.

12 **Q Okay. So why don't you -- what -- do**
13 **you know what software they used -- Chandler used**
14 **pre-pandemic to manage the fulfillment process?**

15 A Yeah. I think Chandler is -- I have
16 no dealings with his company and his operations.
17 I can give you assumptions, but I have no daily
18 communications with him on his business
19 transactions or how he conducts business on his
20 trading level company.

21 But in terms of communication, where
22 is this order, what's going on with this order,
23 can you ship this order faster, it's those types
24 of communications. In terms of his business
25 day-to-day operations, I do not know how they

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1 **negotiating with the suppliers that were**
2 **providing promotional products to you?**

3 MR. BLANCHARD: Objection. Form.
4 Misstates prior testimony.

5 THE WITNESS: My furthest reach is to
6 Chandler. Anything below him, I do not have any
7 contact with. So maybe that answers your
8 question.

9 BY MS. SCHAEFER:

10 **Q Yes. Do you have --**

11 MR. BLANCHARD: May I say something,
12 Michelle? May I say something to try -- may I
13 say something to try and clear up?

14 MS. SCHAEFER: Sure.

15 MR. BLANCHARD: So I think what he's
16 saying, Chandler was the -- for all intents and
17 purposes the supplier and manufacturer. If there
18 were people below him, you know, I don't know
19 that there were or not -- does that make sense?
20 I don't want to say too much.

21 MS. SCHAEFER: Yes. It does make
22 sense.

23 BY MS. SCHAEFER:

24 **Q So once customers ordered covered**
25 **products -- I'm sorry -- non-covered products,**

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1 function.

2 **Q Okay. And that's the case**
3 **pre-pandemic? Is that the case pre-pandemic?**

4 A Pre and post. I have -- he -- there
5 is no reason for me to ask how his company
6 operates. I don't know. He has a role to play
7 for us, and his role is to process our orders.

8 **Q Do you know what sort of I.T. systems**
9 **he uses?**

10 A I wouldn't know, no.

11 **Q So you've said that he provided 90**
12 **percent of sourcing services to you. Who**
13 **provided the other 10 percent?**

14 A There is other various vendors that we
15 use. I wouldn't be able to name it all for you.
16 I could give you abbreviations I use. I think
17 there's Skyee, S-K-Y-E-E. I think you can
18 probably decipher from the company name, I think
19 they have the word Sky in it. There's another
20 one Bruce, and his company name might be Lijun or
21 something like that. There's Yaoli. There is
22 USKY, USB, very small other vendors.

23 **Q When you use these other vendors, do**
24 **they take care of the packaging and the shipping**
25 **as well?**

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1 A In most cases, yes. Ninety percent of
2 the time, yes.

3 **Q You mean 10 percent of the time?**

4 A Ninety percent of the time these
5 vendors that I mentioned just now take care of
6 their own shipping. That's what I meant.

7 **Q What about the other 10 percent?**

8 A There might be some various situations
9 like the goods are too big for them to ship, so
10 they will ship it to Chandler, and they will work
11 it out where he would charge me for the shipping
12 rate. Just -- just anomalies like that. Maybe
13 the weight is too much or they need special type
14 of permission. Maybe it's a medium ion battery
15 that needs special certifications that they're
16 not capable of doing. So things like that.

17 **Q Okay.**

18 A I won't even say 10 percent. Let's
19 just say maybe less than 10 percent.

20 **Q When these -- you're saying when these**
21 **brokers package and ship the orders to consumers,**
22 **do you know whether they use -- what carrier do**
23 **they use?**

24 A UPS, FedEx, DHL. Mostly UPS and
25 FedEx.

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1 **Q And then do you know whether does it**
2 **go via air, aircraft, ocean -- do you have a**
3 **sense of how it's --**

4 A Ninety percent is air. Ninety-five
5 percent is air for our goods.

6 **Q Do you know whether these brokers use**
7 **FedEx more than they use UPS? Is it about even?**

8 A It -- it's a little tricky. They have
9 a formula based on whatever is cheaper based on
10 whatever the weight is, whatever the commodity
11 is. They have a formula that they use, but they
12 interchange.

13 **Q Okay. So I want you to -- this is**
14 **pre-pandemic, let's say November 2019, and I want**
15 **you to walk me through an order process.**

16 **So let's say Michelle goes to**
17 **wrist-band.com and I want to buy 30 wristbands.**
18 **So I go in and I -- I know how the website works.**
19 **At that point I know you changed it. But in**
20 **November 2019, I believe that someone could go on**
21 **and pick the shipping time and the delivery time;**
22 **is that right?**

23 A Production time and shipping time,
24 yeah. It's not shipping and delivery.
25 Production and shipping.

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1 **Q Shipping -- so production, shipping,**
2 **and then would you guarantee delivery date in**
3 **November 2019?**

4 A Yeah. So you would pick a production
5 time, which is a plus, and then a shipping time,
6 which is a plus, and then the addition to that
7 would give you a delivery time.

8 **Q So I order something -- I order**
9 **whatever I said, 10 wristbands, and I want my**
10 **name on them -- you know what? Let me revise**
11 **that hypothetical. I don't want my name on them.**
12 **I just want 10 wristbands.**

13 **Tell me what happens next in terms of**
14 **your systems and the ordering process. So I**
15 **enter -- I pay for the product. What happens**
16 **next on the backend?**

17 A For us, our back end -- for us, our
18 backend sends an API signal to Chandler's system.
19 He receives the order. If you selected a proof,
20 we'll send you a proof. You approve the proof.
21 That is when your order starts.

22 Based on that approval or denial,
23 there's a delay process in there if you take
24 longer to approve, but if you did not select a
25 proof, it automatically goes into his machine.

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1 Completely automated.

2 **Q You mean -- so the order goes in. It**
3 **goes into Chandler's -- what's an API? Did you**
4 **say AP --**

5 A Automatic protocol interface I want to
6 say if that's the correct -- an API, just to kind
7 of break it down for you, I don't know if the
8 acronym is correct, but the API is a piece of
9 code that Chandler gives us that can be read by
10 his system, and we code it based on what he tells
11 us what he needs from us.

12 So he would say that I need the order
13 number. I need the product, all the details, and
14 I need you to format it in this way. And once
15 it's formatted, send it to me here. That's what
16 my system does. And then his system can read
17 that exact formula. So basically they're
18 speaking two of the same languages.

19 **Q Okay. So then you send him this**
20 **electronic message providing information he**
21 **needs. And then once he receives it in his**
22 **system, what happens?**

23 MR. BLANCHARD: Objection. Misstates
24 prior testimony.

25 Objection. Compound.

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1 THE WITNESS: He processes the order.
2 I mean, I assume that's what he does. He
3 processes the order, and he ships the order out.
4 I don't know if you're asking for more detail
5 than that. I don't know.

6 BY MS. SCHAEFER:

7 **Q And so when he processes the order,**
8 **who checks whether you have, you know, I guess**
9 **inventory?**

10 A Who checks --

11 **Q Do you know whether --**

12 A Well -- yeah, he would -- in silicone
13 wristbands, there's never been an inventory
14 concern. I think everything is readily available
15 in silicone. Never had any inventory issues. So
16 there's no inventory matter. Silicone wristbands
17 per se is -- it's silicone, but it has a lot of
18 variations to it, so it's color-coded.

19 For example, if you order yellow, we
20 don't have to have an inventory of yellow
21 silicone. And it's just silicone, and then we
22 inject yellow into it. So never been a concern
23 of inventory. Let's put it that way. I don't
24 know how he manages it. We don't have an
25 inventory tracking in that sense. But never been

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1 an issue.

2 **Q So pre-pandemic and then during the**
3 **pandemic and currently, you -- do you have any**
4 **insight into his inventory processes?**

5 MR. BLANCHARD: Objection. Compound.
6 Objection. Vague.

7 THE WITNESS: No. In terms of -- in
8 terms of silicone wristbands, lanyards, koozies,
9 those are all products, but no, nothing in terms
10 of -- nothing in terms of promotional products I
11 would say that we've had a concern so far.

12 BY MS. SCHAEFER:

13 **Q Were there any promotional products**
14 **that created inventory problems for you**
15 **pre-pandemic?**

16 A No, nothing of major concern.

17 **Q So then --**

18 A Let me clarify. Lanyards have a lot
19 of attachments, metal attachments, but nothing of
20 a concern. Let's put it that way.

21 **Q Okay. And so -- okay, so an order**
22 **comes in. The information gets sent to Chandler.**
23 **He fulfills the order. He then ships the product**
24 **to the consumer in the U.S. This is pre-pandemic**
25 **just to be clear; is that right?**

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1 A That's correct.

2 **Q Now, how does Zaappaaz maintain the**
3 **order information?**

4 A So it reverses back again. Chandler
5 will provide -- we provide an API to Chandler,
6 and then the information rolls right back to us.
7 The thing that he will send back to us is the
8 tracking number, what has been handed off to
9 FedEx, a tracking number will automatically
10 feedback to our system and get imported into our
11 system. And then that will get automated
12 generated through an e-mail sent to the customer.

13 **Q What does the e-mail contain when it**
14 **gets sent to the customer?**

15 A It definitely contains a tracking
16 number. I don't know what it contains in terms
17 of content.

18 **Q When people order online or order**
19 **online from Zaappaaz, what happens is that you**
20 **order and then you get an e-mail confirmation**
21 **shortly thereafter confirming the order, you**
22 **ordered this, this is your shipping date, this is**
23 **your delivery date. Are you familiar with those**
24 **e-mails?**

25 A That's correct.

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1 **Q Are those being generated from**
2 **Chandler's data, or does that get generated from**
3 **yours?**

4 A No. E-mail confirmation is generated
5 from us. That's just basically confirming what
6 you ordered.

7 **Q Okay. And when you -- when Chandler**
8 **sends back the information about fulfilling the**
9 **orders, do you get any information about the**
10 **suppliers coming from --**

11 A No.

12 **Q -- or the vendor? So you get tracking**
13 **information from them, shipment information?**

14 A From Chandler.

15 **Q Right. So pre-pandemic, tell me about**
16 **what system did you use to maintain order**
17 **information.**

18 A We have our custom-built system in our
19 backend.

20 **Q You have a custom-built system where?**

21 A It's a Java built website, I believe.
22 I'm not a developer, so I don't have the
23 expertise in that. But if I had to give you an
24 explanation, it's not -- it's not something you
25 can buy off online. It's not an out-of-the-box

<p style="text-align: right;">85</p> <p>1 system. It's a custom-built system completely</p> <p>2 from scratch.</p> <p>3 Q Who built it?</p> <p>4 A Priyank Vaish, the developer.</p> <p>5 Q When was this database built?</p> <p>6 A It's a progress from 2008 onwards.</p> <p>7 Q If I were to want to know more</p> <p>8 technical information about it, would Priyank be</p> <p>9 the person to ask?</p> <p>10 A He would be the guy, yes.</p> <p>11 Q Let me ask you, this system, does it</p> <p>12 contain order information from customers?</p> <p>13 A That is correct.</p> <p>14 Q Does it contain inventory data at all?</p> <p>15 A No.</p> <p>16 Q Shipping data?</p> <p>17 A Yes.</p> <p>18 Q What kind of shipping data?</p> <p>19 A Tracking numbers.</p> <p>20 Q What about delivery data?</p> <p>21 A Yes. Well, delivery of when it got</p> <p>22 delivered or when it's supposed to get delivered?</p> <p>23 Q Both.</p> <p>24 A When it's supposed to get delivered,</p> <p>25 that's there because you're getting that in your</p>	<p style="text-align: right;">87</p> <p>1 A That's correct. It still is the case</p> <p>2 at some points as of right now. I mean, we just</p> <p>3 can't control if they're going to e-mail us or</p> <p>4 file a complaint online. But yes.</p> <p>5 Q So when someone -- why -- why is it</p> <p>6 not as productive for a consumer to complain via</p> <p>7 e-mail? You know what? I withdraw that</p> <p>8 question. I withdraw the question.</p> <p>9 Why do complaints via e-mail not get</p> <p>10 into the system as opposed to when people use the</p> <p>11 backend?</p> <p>12 A To put it in the easiest way, I guess,</p> <p>13 is an e-mail is a -- the e-mail software is owned</p> <p>14 by someone else. The backend is owned by us. So</p> <p>15 there's real no way of communication unless we</p> <p>16 have a partnership, if that makes sense. If I</p> <p>17 don't have a way to link it, there's no way to do</p> <p>18 it.</p> <p>19 Q Meaning put it in this database we're</p> <p>20 talking about?</p> <p>21 A That is correct, yeah. So we would</p> <p>22 have to kind of process everything via e-mail.</p> <p>23 Q What's the process on the backend? Is</p> <p>24 that a complaint initiated via your website?</p> <p>25 A Pre-pandemic, yes. Every e-mail</p>
<p style="text-align: right;">86</p> <p>1 confirmation receipt. When it got delivered, no,</p> <p>2 we use that as our -- we use the shipping -- the</p> <p>3 tracking number as our metric.</p> <p>4 Q But you do have when it was supposed</p> <p>5 to be delivered?</p> <p>6 A That is correct.</p> <p>7 Q What about refund information?</p> <p>8 A That is correct. It does.</p> <p>9 Q And what about complaint information?</p> <p>10 A Complaint?</p> <p>11 Q Like complaints from consumers, does</p> <p>12 that get inserted into --</p> <p>13 A Somewhat, yes.</p> <p>14 Q What do you mean somewhat?</p> <p>15 A Well, it depends on how they initiate</p> <p>16 the complaint. There's a process where they can</p> <p>17 initiate a complaint from their account or</p> <p>18 sometimes they can initiate a complaint via</p> <p>19 e-mail. If it's via e-mail, which is the most</p> <p>20 unproductive way to submit a complaint, it's</p> <p>21 within the e-mails. But if it's within our</p> <p>22 backend and they submit a complaint from our</p> <p>23 backend, then yes, we would have that record in</p> <p>24 our backend.</p> <p>25 Q And was that the case pre-pandemic?</p>	<p style="text-align: right;">88</p> <p>1 confirmation receipt has a login to their account</p> <p>2 where they can submit a complaint. And they just</p> <p>3 log in, and they just say complaint on order and</p> <p>4 it goes into our ticketing system.</p> <p>5 Q And then it appears in the system?</p> <p>6 A That's correct.</p> <p>7 Q What about -- what about during the</p> <p>8 pandemic? Did that change at all?</p> <p>9 A Same during the pandemic. Yes, now</p> <p>10 the ticketing system has changed where if a</p> <p>11 customer does e-mail, we do not respond via</p> <p>12 e-mail. We create a ticket directly from our</p> <p>13 backend and then give them the link to the ticket</p> <p>14 so then it's logged correctly.</p> <p>15 Q And so now you're trying to capture</p> <p>16 all the complaints in the -- in your database?</p> <p>17 A That is correct.</p> <p>18 Q And when did that feature get</p> <p>19 instituted?</p> <p>20 A Very recently. About three months</p> <p>21 maybe, four months, something like that.</p> <p>22 Q Okay. And so what about web chats? I</p> <p>23 know you can chat with people, customer service</p> <p>24 representatives via your website. So let's start</p> <p>25 pre-pandemic. Is that stuff that would get</p>

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1 entered into the database?

2 A No.

3 Q And what about during the pandemic?

4 A No.

5 Q And now?

6 A Let me clarify what you're asking.

7 Are you asking does the chat logs get transferred
8 over to our database, or are you asking if a
9 complaint is relayed on a chat, do we transfer it
10 over?

11 Q Okay. I guess I don't understand.

12 Can you tell me the difference between those two?

13 A Yeah. It's -- a chat log is if you
14 and me are chatting for one hour, are you saying
15 that log is logged somewhere? We don't log in
16 our database that communication. And the
17 second --

18 Q What's the other example?

19 A The other example is now the past
20 three, four months, if you say you have an issue
21 with an order, we would create a ticket in our
22 backend, and we would give you the link to the
23 ticket so then you have an easier way to follow
24 up and kind of see what the updates are. But
25 pre-pandemic, no, we didn't have that process.

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1 We would tell them to either open a ticket for
2 their complaints. We didn't have a process to
3 create a ticket for themselves.

4 Q Okay. How do you -- how would you
5 open a ticket?

6 A CSR.

7 Q What does that mean?

8 A How -- in what reference are you
9 referring to? As a customer or as a --

10 Q Yes. As a customer.

11 A Yeah. You would login to your system.
12 You would log -- you would have a login. Your
13 login is your e-mail you used when you created --
14 when you made the order. We ask you for your
15 e-mail. And we auto generate you a login. You
16 log in, and then once the order is into the
17 system, right, when you place the order, you can
18 just file a complaint. You say I ordered 100,
19 but now I need 200. So that's a complaint.

20 (Deposition Exhibit Number 3 was
21 marked for identification and attached to the
22 transcript.)

23 BY MS. SCHAEFER:

24 Q I just marked Zaappaaz Exhibit 3, and
25 the first page you should see it's Zaappaaz LLC's

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1 First Amended and Supplemental Objections and
2 Responses to Plaintiff's First Set of
3 Interrogatories.

4 Do you see that on the first page?

5 Are you looking at it?

6 A Mm-hmm.

7 Q Okay. So these were Interrogatory
8 requests that we served, and I'd like you to go
9 to Page 6, and then I'd like you to read on Page
10 6. Just go ahead and read Interrogatory Number 2
11 and the response, and let me know when you're
12 done.

13 MR. BLANCHARD: One second, Michelle.
14 Interrogatory number 2 you said?

15 MS. SCHAEFER: Yeah. Read the
16 question and response, and let me know when
17 you're done.

18 THE WITNESS: Okay.

19 BY MS. SCHAEFER:

20 Q So this SQL database, is that how you
21 say that?

22 A That's correct.

23 Q Is that the database we've been
24 talking about?

25 A That is the database, but that

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1 doesn't -- that's not the framework of the
2 website. But that is the database that the
3 website --

4 Q What do you mean it's not the
5 framework?

6 A SQL is a database. I don't know.
7 Apparently it holds data. That's all. But
8 there's a code that it holds -- has a structure
9 in the mainframe work of the website of how it
10 functions for you -- for me to put a banner on
11 the website that's a code that requires that.
12 For me to change the code from red to blue, that
13 requires a code. That has nothing to do with the
14 database.

15 Q Do you know how to do that coding --

16 A No.

17 Q -- that you just described? So this
18 is the database you had -- well, this is the
19 database, and then you have the structured
20 website with code, and this existed pre-pandemic?

21 A Same, both ways.

22 Q What's that?

23 A It's the same.

24 Q Okay. And the only changes that had
25 been made -- had the only changes been made the

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1 ones that you told me about recently where you're
2 able to convert certain complaints into a form
3 that can go into the database?

4 MR. BLANCHARD: Objection. Form.

5 THE WITNESS: I mean, there is some
6 small -- it's a very vague question. But yes,
7 web services is where we used to host the
8 website. We used to host it on Go Daddy before.
9 I think we switched over in 2018. I don't know
10 when we switched over to Amazon Web Services.

11 So there's been a lot of transitions
12 that's happened, and it happens actually on a
13 weekly basis. We are always making updates on
14 the website. So I can't really pinpoint if
15 that's the only change. There has been a lot of
16 changes from whatever period of time we pick.
17 BY MS. SCHAEFER:

18 Q What -- can you tell me what Shipping
19 Easy is?

20 A Shipping Easy is a software that
21 manages orders and prints labels.

22 Q When did it start using this?

23 A When we started shipping from the U.S.

24 Q And why did you start using the
25 service when you started shipping from the U.S.?

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1 A We needed to print labels, so that was
2 one of the services that provided that.

3 Q And before you started shipping from
4 the warehouse, did your trading agents or brokers
5 create the labels for the most part?

6 A We never shipped from the warehouse
7 before.

8 Q Okay. And so the shipments were
9 coming directly from China; is that right?

10 A That is correct.

11 Q And were your Chinese brokers creating
12 the labels?

13 A That's correct.

14 Q Did you ever -- have you ever gone to
15 China to meet Mr. Chandler Liu?

16 A I have. I think when we started the
17 business with Chandler Liu in 2008, I first saw
18 him maybe five or six years after -- after we
19 started our company. And then I have gone three
20 or four times after that.

21 Q When is the last time you went?

22 A Well, last time I went to China was
23 2019 of October. But it was no -- it had no
24 relationship to the business. I went on a hiking
25 trip. So putting that aside, maybe 2017.

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1 Q Okay. How many trips had to do with
2 Zaappaaz?

3 A What? I'm sorry.

4 Q How many trips to China had to do with
5 your business and fulfillment from Asia?

6 A I didn't specifically go for Zaappaaz.
7 Zaappaaz runs pretty smoothly. I go -- if I go
8 to China, I go for general purpose of exploring.

9 Q I see. So is it the case that you
10 never have gone for business purposes, for
11 Zaappaaz's business purpose?

12 MR. BLANCHARD: Objection. Misstates
13 prior testimony.

14 THE WITNESS: I would say -- you could
15 say not specifically for Zaappaaz, but yes, I
16 mean, we definitely talk about business stuff
17 when I'm there. So if you want to consider it
18 business or not, I don't know how you would
19 classify. But yes, I --

20 BY MS. SCHAEFER:

21 Q Have you met Mr. Chandler in person?

22 A Absolutely.

23 Q What's that?

24 A Yes. Correct. I have.

25 Q How many times have you met him?

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1 A Maybe four times, maybe more. I don't
2 know.

3 Q Did you ever visit his offices?

4 A Yes, I have.

5 Q And is his office -- does he have an
6 office in a building? Does he own an office
7 building? What kind of office does he have?

8 A He has an office. I don't know if he
9 owns it or not. It's an office where he works
10 out of. I don't know to what extent of what his
11 ownership is. I don't know.

12 Q Is it a manufacturing plant?

13 A So, I didn't go to manufacturing. I
14 did go to his shipping, but if you're asking me
15 if he owns it, I don't know. I went to -- yeah,
16 I went to both.

17 Q Okay. So you said you went to
18 manufacturing. What does that mean?

19 A Where they make the wristbands.

20 Q And how many manufacturers? Is there
21 one manufacturer making wristbands?

22 MR. BLANCHARD: Objection. Form.

23 THE WITNESS: I don't think so. But I
24 went to two. I visited two.

25 BY MS. SCHAEFER:

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1 **Q Does that mean there's only two?**

2 A I don't think so. I don't think they
3 have the capacity with just two factories, but I
4 do not know how many he deals with. But I did
5 visit two.

6 **Q Manufacturing plants and then you said**
7 **you visited something else. Shipping?**

8 A I believe that his company's shipping
9 department. So consolidates all shipments there
10 and ships it out from there.

11 **Q Do shipments go out -- is the place of**
12 **shipment different than the manufacturing place?**

13 A It obviously -- it definitely looked
14 like that yes, 100 percent. They were in two
15 different areas of towns. I don't know if he
16 ships out from the manufacturing place or not.
17 But from the looks of it, it looked definitely
18 different, yes.

19 **Q So it sounds like, tell me is this the**
20 **case. So you have a relationship with Mr. Liu --**
21 **Mr. Chandler Liu and a couple -- and maybe some**
22 **other brokers. You rely on them to source the**
23 **products; is that right?**

24 A That is correct.

25 **Q You don't have knowledge of the**

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1 **specific manufacturers that they actually use to**
2 **source your products? You rely on them to find**
3 **them?**

4 MR. BLANCHARD: Objection. Misstates
5 prior testimony.

6 THE WITNESS: That's correct.

7 BY MS. SCHAEFER:

8 **Q Do you ever look at the contract**
9 **between Chandler Liu or the other brokers and**
10 **their suppliers?**

11 A We don't have a contract even between
12 me and Chandler.

13 **Q So -- and so your testimony is you**
14 **don't review contracts between Chandler Liu and**
15 **his providers?**

16 MR. BLANCHARD: Objection. Lacks
17 foundation.

18 THE WITNESS: That's correct.

19 BY MS. SCHAEFER:

20 **Q How do you communicate with Chandler**
21 **Liu and your other brokers?**

22 A Mostly WeChat.

23 **Q Mostly what chat?**

24 A WeChat, W-E-C-H-A-T.

25 **Q Do you maintain WeChat in the normal**

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1 **course of business?**

2 A I'm sorry. What do you mean
3 "maintain"?

4 **Q You produced a lot of documents in**
5 **this case, but I have -- I think I just found a**
6 **handful with Chandler Liu's name on it, and I**
7 **haven't seen any of these WeChats. So I'm**
8 **wondering --**

9 A WeChat is a third-party software.
10 That's not our software. It's a multibillion
11 dollar company that handles chat protocols. We
12 do not maintain it, no.

13 **Q So you don't save them in your systems**
14 **or anything?**

15 A No. We don't save those in the
16 database. We don't have a way to link our
17 WeChats to our database?

18 (Deposition Exhibit Number 4 was
19 marked for identification and attached to the
20 transcript.)

21 BY MS. SCHAEFER:

22 **Q So I have marked as Exhibit 4 the**
23 **Mail, Internet, or Telephone Order Merchandise**
24 **rule that I'm going to refer to as MITOR.**

25 MR. BLANCHARD: What date do you want

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1 him to go to, Michelle?

2 MS. SCHAEFER: I'm going to ask a few
3 questions before I direct him to a page.

4 BY MS. SCHAEFER:

5 **Q So before we filed this lawsuit, had**
6 **you ever heard of this rule?**

7 A I have not.

8 **Q And when did you become aware of it,**
9 **the lawsuit?**

10 A Maybe -- maybe after I consulted my
11 lawyer. I don't even think I researched what
12 MITOR rule was.

13 **Q Are you saying you weren't aware of it**
14 **until this lawsuit?**

15 A That is correct. Yes.

16 **Q Okay. So let's go to -- let's go to**
17 **Section 435.281, which is on Page 4. So I want**
18 **you to read -- go ahead and read Section**
19 **435.2(a)(1).**

20 A Okay.

21 **Q Pre-pandemic, did you have a**
22 **reasonable basis to expect that your product**
23 **could be shipped within the advertised shipping**
24 **time? This is pre-pandemic.**

25 A Yes. Correct.

<p style="text-align: right;">101</p> <p>1 Q And you did have a reasonable basis.</p> <p>2 What was that reasonable basis? Why did you have</p> <p>3 such a reasonable basis?</p> <p>4 A The commitment from the manufacturer,</p> <p>5 the commitment from the shipping, the logistics</p> <p>6 companies.</p> <p>7 Q And because of their representation</p> <p>8 that they could deliver -- ship within a certain</p> <p>9 amount of time, you relied on their</p> <p>10 representations?</p> <p>11 A Sure. Correct.</p> <p>12 Q Let's look at 435.2(a)(4), which is on</p> <p>13 Page -- that's on Page 4.</p> <p>14 MR. BLANCHARD: Is that the one that</p> <p>15 begins "In any action brought by the Federal</p> <p>16 Trade --"</p> <p>17 MS. SCHAEFER: Yes.</p> <p>18 BY MS. SCHAEFER:</p> <p>19 Q Have you read it?</p> <p>20 A I have.</p> <p>21 Q Okay. So this is pre-pandemic.</p> <p>22 What records or documents did you have</p> <p>23 that established a use of system and procedures</p> <p>24 assuring that shipments could be shipped within</p> <p>25 the advertised time?</p>	<p style="text-align: right;">103</p> <p>1 The policy was to refund or to prorate or to ship</p> <p>2 the product back.</p> <p>3 Q And so let's say someone is promised</p> <p>4 your product will ship in 10 days and the product</p> <p>5 doesn't ship in 10 days and they call and they</p> <p>6 say it hasn't shipped, I want to cancel, do you</p> <p>7 let them cancel?</p> <p>8 A I think our company went on the basis</p> <p>9 the product getting delivered, not shipped. So I</p> <p>10 think we want to -- maybe want to clarify that.</p> <p>11 We guarantee the delivery date. So</p> <p>12 the right way would be the product -- if the</p> <p>13 product got delivered on that date rather than</p> <p>14 shipped on that date. Does that make sense?</p> <p>15 Q I'm not sure it does.</p> <p>16 A Promotional products -- promotional</p> <p>17 products, when you choose a delivery date, you</p> <p>18 choose a delivery date, not a ship date. Just</p> <p>19 want to clarify those are two different things.</p> <p>20 Q Correct. But when you order products,</p> <p>21 you're also -- prior to filing the lawsuit, you</p> <p>22 were guaranteed shipping time as well?</p> <p>23 A We're guaranteeing a delivery date.</p> <p>24 Your order is guaranteed to be delivered on.</p> <p>25 That's what I stated. So technically what you're</p>
<p style="text-align: right;">102</p> <p>1 A The tracking numbers.</p> <p>2 Q The tracking numbers? Anything else?</p> <p>3 MR. BLANCHARD: Objection. Form.</p> <p>4 THE WITNESS: I'm going to assume</p> <p>5 that's -- that's the only piece of information</p> <p>6 that would really be necessary. I don't know if</p> <p>7 there's anything else that you're referring to.</p> <p>8 BY MS. SCHAEFER:</p> <p>9 Q I mean, I just wanted to know, you</p> <p>10 know --</p> <p>11 A Nothing else.</p> <p>12 Q -- what records that you relied on to</p> <p>13 ensure you can ship within the promised time.</p> <p>14 Okay. Let's look at (b)(1), which is</p> <p>15 right below that. So go ahead and read it, that</p> <p>16 (b)(1) paragraph.</p> <p>17 A Okay.</p> <p>18 Q And so pre-pandemic, to the extent you</p> <p>19 couldn't ship things on time, would you contact</p> <p>20 consumers to offer them refunds or cancellations?</p> <p>21 A We would not contact them, no.</p> <p>22 Q And if they contacted you and asked</p> <p>23 for refunds because products weren't shipped on</p> <p>24 time or asked to cancel, what was your policy?</p> <p>25 A The policy was to refund or prorate.</p>	<p style="text-align: right;">104</p> <p>1 trying to say is if it's a one-day ship, it</p> <p>2 should ship in one day.</p> <p>3 What I'm trying to tell you, what we</p> <p>4 offered is a guaranteed delivery date, especially</p> <p>5 the same thing. You're essentially taking the</p> <p>6 addition of production time and shipping time.</p> <p>7 What I'm trying to tell you, the guaranteed</p> <p>8 delivery date. If a customer ordered wristbands</p> <p>9 and they were supposed to get it Friday and they</p> <p>10 got it Saturday, yes, that is delayed. But we</p> <p>11 guaranteed a delivery date.</p> <p>12 Q This is pre-pandemic?</p> <p>13 A Even now. Even now.</p> <p>14 Q Well, I guess I don't understand. So</p> <p>15 someone -- what I have seen is someone goes</p> <p>16 online, we can say during the pandemic, and they</p> <p>17 would pick a product, and then they were allowed</p> <p>18 to pick the shipping time and then the delivery</p> <p>19 date. And then when they get a receipt, it says</p> <p>20 shipping days and guaranteed delivery date. So</p> <p>21 aren't the shipping days how many days it's going</p> <p>22 to take to --</p> <p>23 A I think you might -- I think you might</p> <p>24 have it wrong. We don't have a way for you to</p> <p>25 choose a shipping time and a delivery time. It</p>

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1 doesn't work like that. When you choose a
2 shipping time, we give you a delivery date.
3 So if you choose -- like in
4 wristbands, in wristbands, there is a production
5 time and shipping time because you have to
6 produce the wristbands, and that takes X amount
7 of time. We offer different production times,
8 and that is because, for wristbands, if you want
9 to produce 100 wristbands in one day, we need
10 five molds. If you want to produce it in five
11 days, then we only need one mold. So that's the
12 production behind it.

13 Now delivery dates, how do we make it
14 and it's ready to go, do you want it in one day,
15 do you want it three days, do you want it five
16 days or seven days? So those are the options.
17 With the addition of those two gives you a
18 delivery date.

19 Does that make sense?

20 **Q Walk me through a transaction of a**
21 **covered product and what you --**

22 A Yes. A PPE product doesn't
23 necessarily have a production except for certain
24 items, which is the cloth mask. The cloth mask
25 is a custom item because it's not only something

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1 I can pick up and just ship it. It requires me
2 to pick it up, print your logo on it, and then
3 ship it. So that now requires a production. But
4 like, for example, masks, like surgical masks, do
5 not require any production. Pick up the box and
6 then ship it. So you would only choose a
7 shipping time in that frame -- in that aspect.

8 **Q Right. Let's say it's one of those**
9 **products you don't need any production time, what**
10 **does -- what does Zaappaaz represent in terms of**
11 **shipping? Don't they tell you how many days it**
12 **will take to ship?**

13 A No, we don't do days. We give you
14 dates.

15 **Q Okay. We'll look at some of these a**
16 **little bit later.**

17 A Okay.

18 **Q So --**

19 MR. BLANCHARD: Michelle, just I think
20 from here on whenever is a good stopping point
21 because our lunch is going to be here pretty
22 soon.

23 MS. SCHAEFER: You know what, this
24 actually is a good stopping point, but I have one
25 question that I didn't ask earlier that I will

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1 ask, and then we can take a lunch break.

2 BY MS. SCHAEFER:

3 **Q So I want to know what names does**
4 **Zaappaaz do business under?**

5 A DBA?

6 **Q Yes.**

7 A I think you had it in Document 2, Page
8 Number 2 -- sorry. Where's all the company names
9 in the document, all the domain names.

10 **Q Yes. That was --**

11 A Page Number 6.

12 **Q The websites?**

13 A Essentially it's that. I think it's
14 missing WB Promotion. Those are all the --

15 **Q The DBAs?**

16 A There's actually --

17 **Q What about --**

18 A There's actually just two DBAs that I
19 officially follow, which is WB Promotion and
20 wristband.com.

21 **Q What about -- what's fastkoozie.com?**
22 **Oh, that's there, okay. What about**
23 **24wristband.com?**

24 A That's not our company.

25 **Q Okay. Did all of these websites or**

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1 **DBAs sell covered products?**

2 A So let me just explain the structure
3 of these websites. These websites --

4 **Q Okay.**

5 A They're all the same. So if you go to
6 these websites, they're the same exact website,
7 same database, same everything. It's just the
8 domain is different. So, for example, if you go
9 to wrist-band.com, your home page is going to
10 show wristbands, but if you go to
11 CustomLanyard.com or CustomLanyard.net, you're
12 going to see CustomLanyard on the home page, but
13 the products integration is the same exact on all
14 the domains.

15 **Q All of these?**

16 A There's no difference. There's no
17 difference. It's just how we're marketing these.
18 That's it.

19 **Q Let me ask you this because I know**
20 **that you have an interest in Ionized. Was any of**
21 **the Ionized websites ever part of, you know, the**
22 **system you just explained, which is, you know,**
23 **you go to any of these websites and you're**
24 **basically looking at --**

25 A No.

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1 MS. SCHAEFER: I think then this is a
2 good time. How much time do you guys want for
3 lunch?

4 MR. BLANCHARD: Let's do 30 minutes.

5 MS. SCHAEFER: We can go off the
6 record.

7 (A lunch recess was taken.)

8 BY MS. SCHAEFER:

9 **Q So now I want to talk about when**
10 **Zaappaaz started selling the covered products.**
11 **When did Zaappaaz start looking into selling**
12 **covered products?**

13 A March -- middle of March.

14 **Q Middle of March is when you started**
15 **looking into it?**

16 A I think so.

17 **Q What led you to -- what led you to**
18 **want to sell covered products?**

19 A So the city had reached out to me
20 because they knew I did sourcing overseas. So
21 the city reached out to me. I provided them some
22 masks, and then once the city knew that I got the
23 masks, they -- another couple of institutions
24 reached out to me. Then I was like okay, I'll
25 start bringing in masks. So I started bringing

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1 in masks. Then I started getting customers that
2 started calling can you provide this, can you
3 provide that. So it kind of led to that process.

4 **Q When did you -- you said you started**
5 **by providing masks?**

6 A Yes. Correct. Masks.

7 **Q And so you started selling masks to**
8 **Zaappaaz's consumers?**

9 A That's correct.

10 **Q In March?**

11 A That's correct.

12 **Q And were you able to fulfill them**
13 **timely when you first started?**

14 A Yeah, we were. At the initial phases,
15 yeah, because they were shipping directly to
16 consumers.

17 **Q Okay. And -- well, we'll get into**
18 **that in a minute. So you looked into sourcing**
19 **covered products because cities are getting in**
20 **touch with you as a potential source.**

21 **Did you go -- did you turn directly to**
22 **Chandler Liu, or did you look for other brokers?**

23 A Directly to Chandler Liu.

24 **Q And he was able to fulfill covered**
25 **products orders at that time?**

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1 A Immediately, correct.

2 **Q Did you -- okay.**

3 **Did you deal with any other brokers at**
4 **that time or was it solely Chandler Liu?**

5 A At that time if you're referring to
6 the time of March and six months after, yeah, we
7 had multiple vendors.

8 **Q Multiple vendors from Mr. Liu?**

9 A Other vendors that we dealt with to
10 bring in PPE stuff.

11 **Q So from March 2020 through, let's say,**
12 **December 2020, approximately how many vendors --**
13 **brokers did you deal with?**

14 A I want to say maybe three.

15 **Q And so one was Chandler Liu?**

16 A Mm-hmm.

17 **Q Who were the other two?**

18 A Yaoli is an individual who is a
19 sourcing agent of ours we pay. And she is -- for
20 example, if I need -- if I need a specific type
21 of a pen, I will send her that, and she will go
22 source it out for me. So she's a sourcing agent,
23 but she works under us. So she also found --

24 **Q Go ahead. I'm sorry. I interrupted.**

25 A She also -- she also finds products

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1 for us that we -- that customers require, like
2 specific type of products.

3 **Q How is the relationship with her**
4 **different than with Chandler Liu?**

5 A Chandler Liu has a whole structure
6 underneath him. Yaoli is an individual who
7 basically we can tell her that hey go to the
8 market and see if you can find this product. So
9 she is -- I don't know. She is just someone that
10 we can tell her what to do, I guess. Chandler
11 Liu already has his structure set up where he has
12 the shipping. He has the factories and
13 everything under him already. Yaoli is going out
14 and finding these vendors.

15 **Q And so when she finds these vendors,**
16 **who packages the products?**

17 A Yaoli does.

18 **Q At her facilities?**

19 A At her house.

20 **Q Does she source -- I'm talking about**
21 **PPE now, covered products. So she sources a**
22 **product, brings them to her house, packages them;**
23 **is that right?**

24 A Yeah. Most of the time she'll bring
25 it to her house. If the packages are huge, like

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1 if it's 50 boxes, she'll just basically leave it
2 at the factory. She'll take the labels to the
3 factory and have FedEx pick it up there. It's
4 just a logistical process, I guess. Whatever
5 logistically makes sense.

6 **Q But she takes care of shipping -- she
7 creates the labels?**

8 A She creates the labels, correct.

9 **Q And takes care of the shipping, okay.
10 And then there was a third?**

11 A The third, I don't know the name of
12 the company, but -- it was gowns that were being
13 shipped, but I don't know the company's name.
14 It's -- it was maybe a single or two transactions
15 that we did where we did shipments of gowns.

16 **Q Okay.**

17 A And I want to say -- I think that was
18 done via Chandler I want to say. I'm not sure
19 though.

20 **Q Okay. And are these vendors -- well,
21 let me back up. Before lunch, you testified that
22 you rely on, for example, Chandler Liu to find
23 the suppliers, find the vendors. He enters into
24 whatever contractual obligations he has to enter
25 into and that you're not involved in that**

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1 **contracting aspect and sourcing aspect because
2 you rely on him. Was that the same case for
3 covered products?**

4 A Yeah, I would -- yes, fair to say.

5 **Q And so again, when you started selling
6 covered products, you were selling covered
7 products, you were dealing with Mr. Liu, Mr. --
8 and Yaoli who is a woman and relied on them to
9 source everything and deal with the vendors; is
10 that right?**

11 A Well, with Yaoli, it was a little
12 different. Yaoli would connect us with the
13 vendor, and she would be the intermediary
14 which -- so -- yeah, sometimes they don't know
15 English, so she would be like the middle person
16 kind of explaining and mediating all this stuff.
17 Yeah, we would be connected directly to the
18 manufacturer per se in this case because Yaoli is
19 not -- she's not owning her own company. She's
20 just paid on a salary.

21 **Q And who pays her salary?**

22 A We pay her salary.

23 **Q Is she an employee?**

24 A She's not -- she's not an employee.
25 She's a contract -- legally she's not an employee

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1 of Zaappaaz. She was -- she's contracted.

2 **Q So then in those instances where she's
3 the middle woman, are you -- do you enter into
4 contracts --**

5 A No.

6 **Q -- with these vendors in those cases?**

7 A No.

8 **Q What kind of paperwork do you enter
9 into, if any?**

10 A Trust basis.

11 **Q Not even purchase orders?**

12 A No. We -- there's 100 percent
13 purchase orders. There's a PI purchase invoice.
14 That's it.

15 **Q So -- is that also the case with Mr.
16 Chandler Liu? I don't know why I keep calling
17 him Mr. Chandler Liu. Is that the same case
18 with --**

19 A Yes. Mr. Chandler Liu -- we have a
20 net 30 with him. He'll bill us every 30 days or
21 15 days.

22 **Q What -- when he bills you, what is he
23 billing you for exactly in terms of itemized --**

24 A The goods that he ships. We'll put an
25 order number and then he'll put whatever he's

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1 shipping.

2 **Q Who pays for the FedEx?**

3 A Before pandemic, he paid -- he had his
4 own FedEx account that he paid. Now we
5 negotiated better rates with our FedEx account,
6 so he uses our FedEx account, but he pays for it.
7 We pay for it, but he credits us, let's put it
8 that way.

9 **Q And when did that arrangement start?**

10 A I think that started maybe November of
11 2020 -- I mean 2019, something around there.

12 **Q It started pre-pandemic?**

13 A Correct.

14 **Q Okay. So throughout the pandemic,
15 you've been using your FedEx accounts to ship and
16 he has --**

17 A No. A mixture of both. They have
18 their own formula that they use. Either their
19 FedEx account is cheaper at times. Our FedEx is
20 cheaper. Their UPS is cheaper.

21 **Q So you start selling masks. It's
22 around mid-March. At this point, the pandemic
23 has hit, but you testified that at first when you
24 were selling masks, you weren't having issues
25 fulfilling them in a timely manner. When did the**

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1 **problem begin with shipments and delivery?**

2 A When did the problem began was maybe
3 start of April, first week of April.

4 **Q Okay. And what happened the first**
5 **week of April that affected your business?**

6 A Well, mid-March is when we had the
7 lockdown back in Houston, which we had to get
8 special permission to work at the warehouse. So
9 we got that issue, Number 1. So we had to issue
10 that to all our employees for them to come to the
11 warehouse as essential workers.

12 **Q Can I stop you right there? And when**
13 **was that where you got permission?**

14 A Sometime in March -- March -- I don't
15 know. I wouldn't know the exact date.

16 **Q At this point though you're still**
17 **shipping from China. You haven't started**
18 **shipping from your warehouse in March; is that**
19 **right?**

20 A That is correct. Well, yes. March
21 22nd, I believe, is the first order we received
22 for our PPE stuff. So yes, we were shipping up
23 until end of March, I think, directly to
24 customers.

25 **Q Up through March?**

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1 A End of -- until the end of the month.

2 **Q And when did you start shipping out of**
3 **the warehouse in Texas?**

4 A Maybe let's just say -- again, around
5 end of March to start of April.

6 **Q Okay. So the beginning of April the**
7 **pandemic starts to affect your business. Tell me**
8 **how it affected your business exactly. In terms**
9 **of --**

10 MR. BLANCHARD: Objection to form.

11 THE WITNESS: How it affected my
12 business, my promotional business? Is that what
13 you're asking?

14 BY MS. SCHAEFER:

15 **Q How it affected the shipment and**
16 **delivery of goods is what I'm asking.**

17 A Okay. So I think the start of March
18 everybody was trying to -- I guess the middle of
19 March people were starting to kind of fathom what
20 was happening. End of March, everybody went in
21 panic mode, I guess.

22 Shipping transactions spiked all
23 around the world, and people started to realize
24 that PPE was in shortage. So companies like
25 mine, as well as others, buckled up and started

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1 ordering and I guess congested FedEx's hub. I'm
2 assuming that from the articles that I have read.
3 That is one scenario.

4 The other scenario is overnight
5 multiple Chinese regulations were changing. U.S.
6 government was saying that bad PPE products are
7 being sent from China to the U.S., so in
8 retaliation China halted all shipments that were
9 at the hub and had them sent back to the shippers
10 and had them certified, which caused another
11 delay. That's one update.

12 Second update, China now says you
13 cannot ship directly to consumers. You have to
14 ship directly -- you cannot ship directly to
15 consumers. You have to ship directly to a
16 business or -- you can ship directly to an
17 address, but it has to be more than X amount of
18 kilos. Basically if a customer wanted 10 masks,
19 he was not able to get 10 masks directly
20 delivered to him. It had a certain weight limit
21 put on each shipment that left China. I guess
22 they wanted more volume to go out rather than
23 quantity go out. So that was another update.

24 And then the third update was all was
25 shipped back to the shipper and reclassified any

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1 PPE items that needed to be shipped, needed to be
2 stamped and certified by a local authority that
3 certifies medical devices or whatever their
4 category was before it can be shipped out. And
5 this is a span of 30 days that these changes are
6 happening on a daily basis. Now -- and this
7 starts around April-ish.

8 On FedEx's side, limitations are put
9 on overnight based on how many kilos you can
10 ship. FedEx -- so we used to ship about thousand
11 plus kilos maybe. They limited us to 20 kilos.
12 So what we had, we had multiple accounts with
13 FedEx. So the loop hole in that was we were able
14 to ship multiple -- we had multiple limitations
15 on each account, so that kind of helped us kind
16 of push the products out.

17 And then the other restriction was
18 that you could only ship one package per day to
19 an address. So what we did is friends and family
20 gave their addresses, and we shipped to those
21 individual friends and family's addresses and
22 then consolidated all into our warehouse and
23 shipped it directly to customers. So those just
24 are some scenarios.

25 **Q Okay. What time period did all those**

<p style="text-align: right;">121</p> <p>1 things cover? It starts end of March and it goes 2 through what time period? 3 A I would say probably -- the blunt of 4 it, probably April and May. 5 Q Okay. Were there still changes 6 occurring in June that were affecting shipment 7 and delivery? 8 A Well, we were having -- obviously 9 there was a transition happening in India. The 10 shutdown is happening in India. That took a 11 whole aspect to it. The other aspect was 12 employees not wanting to come to work or getting 13 sick or taking precautions because of family at 14 home, whatever that situation was. That was also 15 taken into effect. And then we also had domestic 16 shipping issues where FedEx were not able to do 17 routes certain days due to their staffing issues. 18 So I guess it was a group of issues that were 19 just kind of colliding together to complete the 20 whole process. 21 Q Okay. So all of these factors 22 obviously affected your ability to deliver 23 products; is that correct? 24 A Yes. 25 Q And it affected your ability to ship</p>	<p style="text-align: right;">123</p> <p>1 something we had to work on the moment. So 2 that's what I'm saying. It's an overnight 3 decision that were being made on different levels 4 of the logistical system. Either it's on custom 5 side, either it's on shipping side. It's not 6 something we anticipated. If we would have 7 anticipated it, we could have probably adjusted 8 to our metrics. 9 Q I understand that. But what I'm 10 trying to understand is -- what I think you just 11 said was it didn't affect your ability to ship 12 within promised time or advertised times. 13 A Yeah, I didn't say that. I said it 14 didn't affect our inability to pack the goods in 15 our warehouse. We were running 24-hour shift in 16 our warehouse. But there's other factors that 17 take into play to kind of meet the last mile of 18 the delivery, which is getting it from our 19 facility to the customer. There is something 20 that's unknown there, which is not our company, 21 which is FedEx, or getting the goods from China 22 to our facility. There's a custom blockage there 23 which is not something that we control. So those 24 are things that we don't know. 25 But in terms of -- if you consider the</p>
<p style="text-align: right;">122</p> <p>1 products; is that correct? 2 A It didn't affect our ability to ship 3 products. I think we were -- we were working 4 24-hour shifts at some times. So we didn't 5 have -- we didn't have the disability to ship 6 products. The disability was probably receiving 7 products and getting the products out the door. 8 Maybe that's where the constraint was. But don't 9 think time -- 10 Q Sorry. I don't mean to interrupt. 11 So, for example, during the pandemic in March or 12 April, you advertised that some covered products 13 could be shipped the same day or can be shipped 14 rush. Are you saying that these factors you just 15 discussed didn't affect those shipping times and 16 representations? 17 A No, absolutely not. That's not what 18 I'm saying. I'm saying that those are overnight 19 changes which we didn't anticipate. If we would 20 have anticipated, if FedEx notified us that hey 21 in seven days, you're going to start expecting 22 delays in shipments, we can anticipate that. 23 But overnight if FedEx says you need 24 to send all your shipments back to the shipper, 25 they need to restamp and send it back, that is</p>	<p style="text-align: right;">124</p> <p>1 warehouse itself, goods were still being 2 packaged. The goods were still being put into a 3 trailer. What was happening after that was 4 something that was not something we anticipated. 5 Q So are you saying you were able to put 6 it in the hands of the shipper within the right 7 time, but then actually getting it out of the 8 country is what was impacted? 9 A 100 percent. That is correct. 10 Q And all these delays and restrictions 11 by FedEx and China in no way affected your 12 ability to be able to ship? 13 A In the China warehouse, no. In the 14 U.S. warehouse, no. We didn't have -- we didn't 15 have labor shortages that caused us -- prevented 16 us from shipping, let's put it that way, even 17 though we did have people that were getting sick 18 and not able to show up to work. We had ample 19 amount of people to pack and get the orders into 20 FedEx's hands. 21 So just to put it in perspective, we 22 have a trailer outside our warehouse. We take 23 the packages, pack it and put it inside a 24 trailer. That trailer has to move from there, 25 and that's not something that we move. It's</p>

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1 FedEx that hitches to that trailer and takes it
2 away on a daily basis.

3 **Q Okay. What about inventory, did all**
4 **these factors in the pandemic create supply issue**
5 **for Zaappaaz in terms of sourcing covered**
6 **products?**

7 A I mean -- I guess it comes back to the
8 same story. There was a constraint in getting
9 the products delivered or released from customs
10 or these blockages that were happening overnight
11 caused the delay for us to receive the inventory.
12 Yes, there was -- these are overnight changes
13 that we didn't anticipate. Yes, because of that,
14 you definitely have shortages of products that
15 you could fulfill. That's correct.

16 **Q Okay. That's not quite my question.**
17 **My question is, did you ever -- did Zaappaaz**
18 **during the pandemic, March through let's say**
19 **December 2020, ever advertise that it had, let's**
20 **say, masks in stock, but then when it came time**
21 **to actually fulfill it, they weren't in stock**
22 **because of supply and demand issues?**

23 A No. We always had masks. We always
24 had masks.

25 **Q Okay. What about other covered -- you**

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1 **always had masks. Are there any other covered**
2 **products which you didn't have enough of to**
3 **fulfill the demand or to fulfill orders? You**
4 **sell all sorts of products.**

5 A I'm trying to answer it the best of my
6 ability. If we -- if we advertise that we are
7 shipping -- we're shipping sanitizer dispensers,
8 we had sanitary dispensers. We shipped sanitizer
9 dispensers. But there was -- there was an issue
10 in processing those orders, meaning like from our
11 facility onwards, if that makes sense.

12 In terms of inventory, we never -- I
13 don't think there was a scenario where we were
14 short on inventory because the goods were
15 available in China. The goods were -- wherever
16 goods were available here, we were able to
17 process. But we did not have -- I don't think we
18 had an inventory constraint.

19 **Q For any of your covered products?**

20 A That's right.

21 **Q You don't think you had a constraint**
22 **for any of the covered products that you sell and**
23 **sold?**

24 So I'll just name a few. So, for
25 example, we talked about masks. There are face

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1 **shields. Any inventory problems there?**

2 A No inventory problems. We had the
3 goods.

4 **Q Okay.**

5 A The logistical problems sure, yes. We
6 had the goods, but I think logistically it was a
7 nightmare.

8 **Q Logistically it was a nightmare.**
9 **Elaborate on that. What do you mean by**
10 **"logistically"?**

11 A For example, if you have something at
12 your house right now and you want to get it to --
13 you want to ship it to Houston, whatever that
14 parameter is between your house and Houston,
15 whatever is doing that, that is the logistical
16 aspect I'm talking about. Wherever -- whatever
17 entities play in between those two Point A and
18 Point B, whoever is playing in between that,
19 that's what I'm talking about logistically.
20 Either it's custom. It's either transportation.
21 Either it's U.S. custom.

22 So rules and regulations were changing
23 because not an influx of these types of products
24 were coming in as medical products, and they
25 were -- rules were changing because people like

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1 us who sell promotional products were starting to
2 import medical masks.

3 So I think the U.S. government started
4 making a little more enforcement on how to bring
5 those in and how to validate them, make sure the
6 public was safe and all that stuff. Things were
7 changing on a daily basis and that -- those are
8 the parameters in between that I'm referring to
9 that caused the delay in these issues.

10 **Q Okay. According to you, inventory**
11 **wasn't an issue, nor was shipping. It was just**
12 **the logistical aspect?**

13 A Shipping was an issue. Packing was
14 not an issue. Let's put it that way.

15 **Q Okay. I guess then what is the**
16 **difference between packing and shipping?**

17 A So packing -- in my warehouse when I
18 pack something, I put it inside a FedEx trailer,
19 and now once the FedEx trailer leaves my
20 facility, that's considered shipping. Make
21 sense?

22 **Q So was there -- did it affect the**
23 **trailer leaving your facility?**

24 A Yeah. That's what I mentioned.
25 That's what I mentioned, correct.

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1 **Q So the pandemic affected -- it didn't**
 2 **affect the packaging; it affected FedEx coming to**
 3 **pick it up and take the trailer away?**

4 A Yeah, I told you, right. We didn't
 5 have any employee issues to pack the goods. We
 6 had employees. Now, what I'm saying is shipping
 7 was the main aspect. Whatever it was in between
 8 those two -- that two pieces is where the delays
 9 were being caused and not -- there were not
 10 delays that were anticipated. They were delays
 11 that were just happening on day-to-day basis
 12 based on the circumstances the world was facing.

13 **Q Okay. So that -- we just talked about**
 14 **the warehouse. Let's talk about China and the**
 15 **impact and the delays. Is it the same thing that**
 16 **packaging wasn't a problem but again it's FedEx**
 17 **coming to get the products?**

18 A That's correct.

19 **Q Okay.**

20 MR. BLANCHARD: Misstates prior
 21 testimony. I'm so sorry.

22 Objection. Misstates prior testimony.
 23 BY MS. SCHAEFER:

24 **Q I'm going to -- I just marked your**
 25 **expert report -- Ms. Coates' report of Zaappaaz**

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1 **5.**
 2 **(Deposition Exhibit Number 5 was**
 3 **marked for identification and attached to the**
 4 **transcript.)**

5 BY MS. SCHAEFER:

6 **Q Can you go to Paragraph 24. Tell me**
 7 **when you're done reading it.**

8 A I'm done.

9 **Q Okay. And so this is what we've been**
 10 **talking about, correct? This is --**

11 A Correct.

12 **Q -- what you were dealing with in the**
 13 **spring of 2020; is that right?**

14 A I will change up a little bit of the
 15 statement. But sure. Correct.

16 **Q How would you change it? How would**
 17 **you change it?**

18 A I don't think the world was short of
 19 supply of PPE. I think nations that did not
 20 manufacture were short of those supplies.

21 **Q Now, read 25 and tell me when you're**
 22 **done.**

23 A I'm done.

24 **Q Okay. And is that true that**
 25 **sanitizers were out of stock and unavailable?**

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1 A I don't think they're short of supply
 2 as of today or whenever she wrote this. I think
 3 the world has pretty much caught up.

4 **Q What about -- I'm sorry. I**
 5 **interrupted again. So I didn't understand your**
 6 **testimony.**

7 A My testimony is I don't believe it's a
 8 shortage of product today.

9 **Q But I'm talking about back in the**
 10 **spring of 2020, hand sanitizers, wipes.**

11 A I don't think it's mentioning that.
 12 Yeah, they were in high demand in the spring of
 13 2020. That's a true fact, if that's what you're
 14 asking. The hand sanitizers, bacterial wipes,
 15 and other disinfectant products.

16 **Q Let's go to Paragraph 36. So did you**
 17 **begin sourcing hand sanitizers from U.S.**
 18 **suppliers?**

19 A That is the only suppliers we use for
 20 hand sanitizers. That was the only options.

21 **Q So you never imported hand sanitizer**
 22 **from Asia?**

23 A No.

24 **Q Did you have problems obtaining hand**
 25 **sanitizer in the U.S.?**

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1 A We did not have any issues with hand
 2 sanitizer in the U.S.

3 **Q Who were your vendors?**

4 A I don't know if you can help me. I
 5 don't know off the top of my head.

6 **Q It's okay. It's okay. Don't worry**
 7 **about it.**

8 A There were a couple of them.
 9 Whitmeyer's is one of them. W-H-I-T-M-E-Y-E-R-S.

10 **Q Let's go to Paragraph 39. And I just**
 11 **want to go sort of date by date. So**
 12 **January/February, "International cities shut down**
 13 **including Wuhan, Hong Kong and Italy."**

14 **At this point you weren't selling**
 15 **covered products; is that right?**

16 A That's correct.

17 **Q Was your promotional business**
 18 **affected?**

19 A No. Our promotional business -- yeah.
 20 No, it was not affected.

21 **Q Was it ever affected by the pandemic?**

22 A It was.

23 **Q Starting in what month?**

24 A Exactly, I think, March 22.

25 **Q Okay. So then March 2020, "Widespread**

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1 employment shutdown/quarantine internationally,
2 including several cities in the U.S." And March
3 is when you start selling PPE, the end of March;
4 is that right?

5 A That is correct.

6 Q March 3rd, "FedEx suspends its on-time
7 money-back guarantee."

8 Are you familiar with the money back
9 guarantee?

10 A I am.

11 Q What is it? Can you describe that
12 policy?

13 A The policy is that if FedEx guarantees
14 that they're going to deliver on the 3rd, they
15 will issue your FedEx fees back if they deliver
16 on the 4th.

17 Q It's based on delivery?

18 A Right.

19 Q And did you find out about this policy
20 change --

21 A This was never sent to us.

22 Q -- in March? When did you find out
23 about it?

24 A This was never known to us until
25 maybe -- I don't know, way later on. We actually

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1 never took advantage of the money-back guarantee.
2 The process of the money-back guarantee is a
3 little different, but we never took advantage of
4 it.

5 Q So then May 3rd, 2020, "Zaappaaz adds
6 delivery update on disposable gown orders."

7 Is that correct?

8 A I don't know what updates were. There
9 were multiple updates. I don't know which one
10 this is referring to.

11 Q Okay. But there were multiple
12 updates?

13 A Sure. Yes, correct.

14 Q Okay. Then the March 31st, "China
15 imposes and enforces customs restrictions," and I
16 think you testified about this. This is also
17 your selling PPE at this point?

18 A Correct.

19 Q Is that right?

20 A Correct. I want to say this is around
21 April, not March. She might be right if she did
22 her research. I want to say it was pretty close
23 to more than April than March.

24 Q Okay. And then April 2020 there's
25 increasing lockdowns and restrictions announced

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1 in the U.S.

2 Do you agree with that?

3 A Yes. That's a fair assessment, yeah.

4 Q And then April 1st, FedEx announces
5 the restrictions. Did you find -- you found out
6 about those?

7 A We found out -- we found out pretty
8 instantly on this one because we were shipping
9 daily.

10 Q And then April 1st, "UPS sends
11 shipment delay notice."

12 Did you get that notice as well?

13 A This notice I do not recall getting
14 from UPS, but unless it was just a general wide
15 notice on their website, I do not recall this
16 notice coming to Zaappaaz specifically.

17 Q Then April 19th, 2020, "Zaappaaz
18 announces shipment delays in its newsletter to
19 customers."

20 Do you recall that happening?

21 A I do recall that, yes. I don't know
22 the date is correct or not, but I do recall this.

23 Q And then May 3rd you add the delivery
24 update on reusable cloth face masks?

25 A Correct.

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1 Q And then August 11th the model of
2 products may differ?

3 A Correct.

4 Q And then you changed your guaranteed
5 delivery date to estimated delivery date?

6 A Correct.

7 Q And removed the money-back guarantee
8 on August 13th through 14th.

9 In terms of the posts that went on the
10 website on May 3rd, April 19th, May 3rd again,
11 whose decision was it to post these updates?

12 A This was a joint decision. I guess
13 Khalil wrote up the decision, and we all approved
14 it because we knew what was going on.

15 Q And why -- Khalil made the decision
16 that makes these posts?

17 A It's not -- I don't know who made the
18 decision, but it was obvious that shipments were
19 being delayed. So I guess it was an obvious
20 decision, so I don't know who made the decision,
21 but it was a general consensus that it needed to
22 be done.

23 Q And who wrote these notices?

24 A I think Khalil wrote these notices.

25 Q And did you review them before they

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1 were posted?

2 A I did review some of them, yes. I
3 think the first one, which is the one that we
4 sent -- I don't know which one that was, but it
5 might be that one that she's referring to on
6 April 19th I reviewed.

7 Q Okay. Other than these updates, were
8 there any other significant changes to the
9 website in terms of notices to consumers about
10 deliveries?

11 A Yeah. We had a default message on any
12 page you went to the website on the top, it was a
13 static bar that said because of -- the standard
14 message that every company was putting that
15 because of COVID, there's causal delays and stuff
16 like that. There was a standard message on the
17 bar on the website, and there was constant
18 updates being done with images of products as
19 vendors were changing product labels due to
20 shortages of packaging and et cetera. But --

21 Q Let me stop you there. What do you
22 mean "shortages of packaging"?

23 A I'm trying to give you an example that
24 you might kind of -- I guess could understand.
25 For example -- yeah, so if you -- if you look at

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1 one of the companies, one of the biggest
2 companies is Purell. Purell had bottle
3 shortages. They changed the shape of their
4 bottles because they started packaging in bottles
5 that were available at that time domestically or
6 what they could get their hands on because the
7 world hadn't ever seen these many bottles being
8 utilized because now bottles were being utilized
9 for hand sanitizers at a massive volume. Bottles
10 were being utilized for hand soap at a massive
11 volume. So things like that. Maybe the original
12 bottle looked like a square, now it looks like a
13 circle. So things like that were definitely
14 changing.

15 People were ordering labels from China
16 for their packaging. Now they couldn't go to
17 China as an option. They had to go domestically.
18 Domestically, the labels, maybe it was glossy.
19 Now it's not glossy. It's matte. So because of
20 the volume of problems that was happening and
21 demand that was happening with these products,
22 vendors started using what was comparable to
23 their product.

24 MS. SCHAEFER: I'm going to grab one
25 thing.

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1 (Deposition Exhibit Number 6 was
2 marked for identification and attached to the
3 transcript.)

4 BY MS. SCHAEFER:

5 Q Is this the notice that was posted on
6 April 19th -- I'm sorry, the type is hard to
7 read.

8 A I believe so.

9 Q You said this appeared on every web
10 page of the website?

11 A No, I didn't say that.

12 Q Okay. Sorry.

13 A Yeah. I said there is a little --
14 there's a little bar that goes -- just like how
15 you see the screen that that is -- there's a bar
16 that goes on every -- we might even have that bar
17 still. It might just say something else. That
18 bar reflected delivery delays caused by COVID-19,
19 and then we had a link to it, which actually I
20 believe linked this document right here.

21 Q Okay. So I guess I'm not
22 understanding. Was there a link you're saying on
23 these pages to this notice?

24 A This was sent out -- Number 1, this
25 was sent out to all customers. That's Number 1.

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1 Number 2, if you went to wrist-bands.com and you
2 placed an order, every page on the top it had
3 notice of delays being caused because of whatever
4 is written in this article.

5 I believe after -- it had a little two
6 sentence written on top, and it said click here
7 for more, and then it gave a little more
8 general -- more in-depth idea of what the delay
9 was being caused.

10 Q Okay. Well, I don't think I have seen
11 any of those documents produced with that bar or
12 that message.

13 A You might have it in your screenshots
14 I believe. But okay.

15 Q Do you have archived copies of the
16 website that would show that?

17 A Yeah, I think we would have it
18 somewhere.

19 Q And we asked for it in discovery, so
20 it should have been produced. If it hasn't, we
21 want it.

22 A I mean, it's not a document. It's
23 just a web page. I don't know how to produce
24 that. We might have a screenshot of it
25 somewhere. Someone might have taken it. I don't

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1 know -- I don't know how to produce it.

2 **Q Do you maintain archives of your**
3 **websites over time?**

4 A No.

5 **Q Sorry. I'm trying to find --**
6 **(Deposition Exhibit Number 7 was**
7 **marked for identification and attached to the**
8 **transcript.)**

9 BY MS. SCHAEFER:

10 **Q Here is -- this is a May 6, 2020,**
11 **capture from your website. Do you see that above**
12 **there's a "pay later option" and above it looks**
13 **like a red bell and it says, "We're here for you.**
14 **Click here here to view a message from our entire**
15 **team at wrist-band.com."**

16 **Is that where the message was?**

17 A No. It was where the "Get 10 percent
18 off your order today. Use code SAVE10." That's
19 where the message was.

20 **Q Oh, I'm sorry. Where is that? Oh, up**
21 **there?**

22 A All the way at the top.

23 **Q That's where you had the -- that's**
24 **where you clicked for the message?**

25 A Correct.

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1 **Q Did it say something else at the time**
2 **before this?**

3 A At the time, yeah, during the time
4 when we were facing delays, that was replaced.

5 **Q So what did it say when you were**
6 **experiencing delays?**

7 A I don't know the exact word it said,
8 but it talked about the delays that we were
9 facing because of COVID-19. That's a general.

10 **Q So this is -- this is May 6. How long**
11 **was the link you just talked about on there with**
12 **those words?**

13 A I have no idea. I don't know.

14 (Deposition Exhibit Number 8 was
15 marked for identification and attached to the
16 transcript.)

17 BY MS. SCHAEFER:

18 **Q I just marked this Zaappaaz 8. It**
19 **looks like the same document, but it was produced**
20 **as a different one. Do you know the difference**
21 **between this and Zaappaaz 7?**

22 A I don't think there's any difference.

23 **Q Do you see one is maybe from the**
24 **website and one -- I mean from a desk site and**
25 **one is from a mobile site?**

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1 A It's possible. I don't know. I
2 believe the content is the same.

3 (Deposition Exhibit Number 9 was
4 marked for identification and attached to the
5 transcript.)

6 BY MS. SCHAEFER:

7 **Q Okay. I just marked this as Zaappaaz**
8 **Exhibit 9, and this appears to have been posted**
9 **on May 3rd on the website. Do you know where**
10 **this was posted on the website?**

11 A I don't think this was on the website.
12 I think this was an e-mail that was sent out.

13 **Q Okay. Let me go back to -- wait a**
14 **minute. So here May 3rd, I'm looking at the**
15 **export report now on Page 11, and it says May**
16 **3rd, 2020, Zaappaaz ads delivery update to its**
17 **website. So is that wrong?**

18 A I'm not saying it's wrong. I'm saying
19 from my recollection I think that looks like an
20 e-mail letter. If they hyperlinked it somewhere,
21 maybe it was a decision that was made by Khalil.
22 I have no idea behind it. But from the looks of
23 it, it looks like an e-mail.

24 **Q I thought that your expert Rosemary**
25 **Coates just spoke to you and Mr. Blanchard. I'm**

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1 **not sure where we she would get this information.**

2 THE WITNESS: Maybe she reviewed some
3 documents that she figured it out. I don't know.
4 I don't know.

5 MR. BLANCHARD: She never talked to
6 Khalil Michelle.

7 MS. SCHAEFER: She did or did not?

8 MR. BLANCHARD: Did not.

9 MS. SCHAEFER: Okay.

10 BY MS. SCHAEFER:

11 **Q If this was an e-mail, who would it**
12 **have gone out to?**

13 A All the customers in our database.

14 **Q Is that everyone that had bought**
15 **covered products from you?**

16 A I believe everyone. It was a blanket
17 e-mail.

18 **Q What's the next exhibit number?**

19 COURT REPORTER: It should be 10.

20 (Deposition Exhibit Number 10 was
21 marked for identification and attached to the
22 transcript.)

23 BY MS. SCHAEFER:

24 **Q Again, this looks like that same**
25 **document, but you tell me.**

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1 **Is there a difference between this and**
2 **the previous one?**

3 A I don't think there's a previous one
4 to this one unless you just uploaded another one.
5 It looks like the same. So one maybe came from
6 the website, and one maybe as an e-mail, if you
7 received two of them.

8 **Q Okay.**

9 **(Deposition Exhibit Number 11 was**
10 **marked for identification and attached to the**
11 **transcript.)**

12 BY MS. SCHAEFER:

13 **Q So Zaappaaz 11, here is the delivery**
14 **update on reusable cloth face masks which appears**
15 **to have been according to the expert report**
16 **posted on May 3rd. But again, was this posted or**
17 **an e-mail?**

18 A My recollection it looks like an
19 e-mail. But again, it could be on website as
20 well.

21 **Q And Khalil would know that probably?**

22 A Maybe, yeah.

23 **(Deposition Exhibit Number 12 was**
24 **marked for identification and attached to the**
25 **transcript.)**

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1 BY MS. SCHAEFER:

2 **Q And again, this was a different**
3 **document produced. Does it look different to you**
4 **than the previous one?**

5 COURT REPORTER: I can't hear you.

6 THE WITNESS: I'm sorry. I wanted to
7 see if there was another document. I couldn't
8 see it on the screen. No, it looks the same to
9 me.

10 BY MS. SCHAEFER:

11 **Q Okay. We just went through the**
12 **customer notices that your expert included in her**
13 **report. Other than these, were there any other**
14 **customer notices you're aware of posted on the**
15 **website or e-mailed?**

16 A If they were posted on the website.
17 E-mails directly to customers individually, maybe
18 we -- maybe notified them. As a bulk e-mail, it
19 probably went to our e-mail software. So I
20 believe these might be it. If not, maybe one or
21 two more. I don't have -- I don't have knowledge
22 of those.

23 **Q But to the extent there were more,**
24 **presumably they would have been produced?**

25 A I don't know how to answer that. They

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1 should have been produced, yes, unless they were
2 missed.

3 **Q Let's go back to the expert report.**

4 MR. BLANCHARD: Michelle, may I take a
5 five-minute break when you are at a good point?

6 MS. SCHAEFER: Sure. Let me just
7 finish this section. I want to ask some
8 questions about Chinese regulations, and then we
9 can take a break.

10 BY MS. SCHAEFER:

11 **Q I feel I asked you. I forgot what you**
12 **said. Before the impact of COVID on Zaappaaz's**
13 **business in late March, was the uncovered**
14 **promotional business affected by all these China**
15 **shutdowns, let's say prior to March 2020? I**
16 **can't recall what you said.**

17 A What was the question again?

18 **Q Okay. So January and February we had**
19 **spoken about earlier all these regulations or**
20 **rules were changing in China, and cities were**
21 **being shut down. I'm wondering how that affected**
22 **your promotional business.**

23 A Yeah, these regulations --

24 (Simultaneous crosstalk.)

25 THE WITNESS: These regulations mostly

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1 took place in March -- I'm sorry, end of March,
2 early April. And they were mostly restricted on
3 PPE products, and they were defined as PPE
4 products.

5 BY MS. SCHAEFER:

6 **Q Okay. Because when I look at -- go**
7 **ahead.**

8 A Shipping promotional products directly
9 to customer was not an issue. Those were
10 unrestricted.

11 **Q I see. And in January when -- and**
12 **February when, you know, international cities in**
13 **China were shutting down, this was before you**
14 **were selling covered products, but how did that**
15 **not affect the sale of your promotional products?**

16 A I mean, it wouldn't affect the sale of
17 my promotional product. It probably would affect
18 the delivery of my promotional products.

19 **Q Well, okay. So did it affect the**
20 **delivery of your promotional products in January**
21 **and February?**

22 A It did not, no.

23 **Q Okay. The shipment of your products?**

24 A No, it did not.

25 **Q Let's go to Paragraph 31 of the expert**

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1 report. Just let me know when you have read it.

2 A Got it. I've read it.

3 Q So is this one of the factors you were
4 talking about before in terms of changes in
5 Chinese rules or regulations?

6 A These are one of the political
7 factors, yes. Sorry. These are one of the
8 political factors. I don't know if it's true or
9 not. These are one of the political factors that
10 that was mentioned in multiple articles. Yes,
11 sure.

12 Q But you're not sure if this happened?
13 Didn't you experience it firsthand?

14 A There's no way for me to speak on
15 behalf of the Chinese government. But I mean --
16 but the second half of the statement is true.
17 This resulted in shipments bound for America to
18 be held in port until the Chinese government
19 reviewed, confiscated, and released them.

20 Like I said, our goods were just being
21 held up at the port. Now, before whatever was in
22 that statement, I can't speak on behalf of the
23 Chinese government. If that was a reason, then
24 that was the reason. I can tell you that our
25 goods were sitting at the port.

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1 Q Read Number 32 and then tell me when
2 you're finished.

3 A Yes.

4 Q Is this something you experienced?

5 MR. BLANCHARD: Objection. Compound.

6 THE WITNESS: Fortunately, we did not
7 experience any counterfeit products, but
8 experienced a logistical issue because what I
9 mentioned is the U.S. started complaining that
10 Chinese were sending counterfeit products, which
11 caused the Chinese to retaliate by, I guess,
12 delaying the products and making it much harder
13 for goods to be exported out.

14 So yeah, it's a mumble jumble of
15 things that kind of made these issues. We didn't
16 per se experience counterfeit products, but I am
17 fully aware of this -- my vendor mentioning this
18 issue was happening because of the Chinese
19 wanting to send out certified products.

20 Q Let me show you one more document, and
21 then we can take a break.

22 (Deposition Exhibit Number 13 was
23 marked for identification and attached to the
24 transcript.)

25 BY MS. SCHAEFER:

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1 Q Okay. This is an e-mail from Dan
2 Lubic April 10th, and he's sending you China
3 imposed new export restrictions for COVID-19
4 products.

5 Who is Dan Lubic?

6 A I don't know.

7 Q And this admin@ionizedllc.com, do you
8 know who received that e-mail address?

9 A Alishah received that e-mail.

10 Q So you received this at some point?

11 A I personally did not read it. I'm
12 sure one of them received it.

13 Q Were you aware -- you've been talking
14 about it. Were you aware of this -- these
15 restrictions at the time?

16 A I think I was aware of it much earlier
17 than this, but yes.

18 Q How much earlier?

19 A I don't know the exact date, but I
20 would say probably first week of April to around
21 that -- I mean, like I mentioned, I think it was
22 the first week of April when things were
23 happening on a daily basis.

24 Q Okay.

25 A This is probably when we received the

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1 notice from FedEx.

2 MS. SCHAEFER: All right. We can take
3 a break now.

4 (A brief recess was taken.)

5 MR. BLANCHARD: And Michelle, I just
6 want to note an objection to the earlier
7 questions about the actual test of MITOR. I want
8 to object to those questions as calling for a
9 legal conclusion. I just want to make sure I did
10 say it while you have a chance to hear, but I
11 should have made it sooner, but I'd like to lodge
12 it now.

13 BY MS. SCHAEFER:

14 Q Starting in the end of March,
15 beginning of April and going forward, you
16 started -- Zaappaaz started receiving lots of
17 complaints from consumers about delays in
18 shipments and not receiving their products.

19 Are you aware of these complaints?

20 A I am aware of some complaints, yes.

21 Q Okay. And so did Zaappaaz receive
22 complaints from the BBB?

23 A Sorry?

24 Q Did Zaappaaz receive complaints from
25 the Better Business Bureau?

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1 A I'm not aware of it, no.
 2 **Q You're not aware --**
 3 A During March and April?
 4 **Q During any time between March and**
 5 **December 2020, let's say.**
 6 A Possibly.
 7 **Q But you don't remember one way or the**
 8 **other Zaappaaz did?**
 9 A I'm sure they did. I don't -- I don't
 10 handle the complaints on that level, if that's
 11 what you're asking. I'm sure that they did
 12 receive BBB complaints.
 13 **Q Okay. And did you personally receive**
 14 **BBB complaints?**
 15 A What does that mean "personally"?
 16 Like --
 17 **Q I mean, were Better Business Bureau**
 18 **complaints forwarded to your attention via**
 19 **e-mail?**
 20 A Possibly, yes. Possibly.
 21 **Q Who handles those -- responding to**
 22 **those complaints?**
 23 A On BBB or responding to the
 24 complaints?
 25 **Q Responding to the BBB.**

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1 A We don't respond to BBB.
 2 **Q Okay. Who responds to the consumer?**
 3 A The CSRs.
 4 **Q Who provides directions to the CSRs as**
 5 **to what to tell consumers?**
 6 A Fatima and Eroze.
 7 **Q And who provides the information to**
 8 **Fatima and Eroze as to what to tell their CSRs to**
 9 **tell consumers?**
 10 A During March, it goes through Khalil,
 11 and then it goes through me.
 12 **Q During March, it went through Khalil?**
 13 A I mean, it depends on -- yeah. It
 14 totally depends on what reference point you're
 15 referencing. So yes, if it was -- if you're
 16 referencing from March to December, that was the
 17 chain of command.
 18 **Q Okay. So the chain of command --**
 19 **describe the chain of command again.**
 20 A CSRs, Fatima, Eroze, Khalil, and then
 21 to me.
 22 **Q In terms of what information the CSRs**
 23 **are providing to consumers?**
 24 MR. BLANCHARD: Objection. Misstates
 25 prior testimony.

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1 THE WITNESS: Well, I mean, I don't
 2 specifically tell -- tell them that hey you need
 3 to pick up the phone and be nice to the
 4 customers. I would assume that is -- that is a
 5 general knowledge that is -- that is what I hired
 6 Fatima and Eroze to do, to handle CSRs.
 7 BY MS. SCHAEFER:
 8 **Q Okay.**
 9 A I don't -- I don't give them -- I
 10 don't -- I don't teach them their job, if that
 11 makes sense. If there's a problem that needs to
 12 be corrected in the process, I correct that.
 13 **Q Okay. All right. So starting in**
 14 **March -- end of March, early April, you start**
 15 **selling PPE, you start -- Zaappaaz starts**
 16 **receiving complaints. Zaappaaz received**
 17 **complaints from the BBB. You say you may have**
 18 **been on e-mails directly from the BBB.**
 19 **Did you receive consumer complaints**
 20 **via consumer e-mails? Did Zaappaaz?**
 21 A Yes.
 22 **Q Did you personally?**
 23 MR. BLANCHARD: Objection. Form.
 24 THE WITNESS: Possibly, yes.
 25 BY MS. SCHAEFER:

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1 **Q So were you on e-mails where consumers**
 2 **were complaining about delivery issues and**
 3 **shipment issues?**
 4 A I just want to clarify. I was not
 5 responding to e-mails per se. That was a
 6 responsibility of Khalil.
 7 **Q Were you on e-mails?**
 8 A If I was on an e-mail?
 9 **Q Were you included on any consumer**
 10 **e-mails complaining about shipment and delivery**
 11 **issues?**
 12 A Absolutely. Absolutely. Yes.
 13 **Q Did you -- did Zaappaaz receive**
 14 **chargeback disputes because of shipment and**
 15 **delivery issues?**
 16 A Yes.
 17 **Q Were you on any communication**
 18 **involving these chargeback disputes?**
 19 A I don't know.
 20 **Q Were you aware of the chargeback**
 21 **disputes?**
 22 A Yes. Correct. I was.
 23 **Q Were you aware -- did Zaappaaz have**
 24 **chargeback disputes related to Stripe?**
 25 A Correct. Yes.

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1 **Q Did it have payment process disputes**
2 **related to Braintree?**

3 A Yes.

4 **Q Did it have chargeback disputes**
5 **related to Pay Pal?**

6 A Yes.

7 **Q Did you have chargeback disputes**
8 **related to Amazon?**

9 A Yes.

10 **Q Did you have -- did you have**
11 **chargeback disputes related to Fiserv?**

12 A I don't know what that is.

13 COURT REPORTER: What was that? I'm
14 sorry.

15 MS. SCHAEFER: Fiserv, F-I-S-E-R-V.

16 THE WITNESS: Fiserv is the processor
17 that processes through Braintree. So very
18 similar.

19 BY MS. SCHAEFER:

20 **Q Okay. What about --**
21 **(Simultaneous Crosstalk.)**

22 BY MS. SCHAEFER:

23 **Q And so -- okay. So let me break this**
24 **down. So when I was saying "you", I was talking**
25 **about Zaappaaz. So Zaappaaz -- let's break it**

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1 **down. Zaappaaz was aware of Stripe chargeback**
2 **disputes; is that right?**

3 A Yes.

4 **Q Was Zaappaaz aware of Braintree**
5 **disputes?**

6 A Yes.

7 **Q Was Zaappaaz aware of Pay Pal**
8 **disputes?**

9 A Yes.

10 **Q Was Zaappaaz aware of Amazon disputes?**

11 A Yes.

12 **Q Were -- was Zaappaaz aware of Square**
13 **disputes?**

14 A We never used Square.

15 **Q Are there any payment processors I**
16 **have left off in terms of chargeback disputes**
17 **related to covered products?**

18 A I don't think so.

19 **Q Same question, but I'm going to say**
20 **you personally, Azim Makanojiya, were you aware**
21 **of disputes with Stripe?**

22 A With all of them, correct.

23 **Q Okay. With all of them. Did any --**
24 **did there come a time when any of these payment**
25 **processors kicked you off their payment**

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1 **processing platform?**

2 A Yes.

3 **Q And which payment processors were**
4 **those?**

5 A I want to say the Fiserv, the one
6 you're referencing.

7 **Q Say that again.**

8 A The Braintree one.

9 **Q The Braintree kicked you off their**
10 **platform. What about Amazon?**

11 A Amazon kicked us off the platform
12 because of this -- this suit, I believe, not
13 because of chargebacks.

14 **Q So Zaappaaz and you received BBB**
15 **complaints, chargeback disputes, consumer e-mail.**
16 **What about there's complaints encompassed in chat**
17 **between your CSRs and consumers, did you receive**
18 **those --**

19 A In chats?

20 **Q -- personally? What's that?**

21 A I don't know what you said.

22 **Q Okay. So complaints -- there are**
23 **complaints that you produced that they're in the**
24 **form of chats between a consumer and one of your**
25 **CSRs. And I -- have you seen any of these? I**

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1 **think chats -- can't you create a chat on your**
2 **website?**

3 A If I can create -- I cannot create it
4 as an owner. You can create it.

5 **Q So if a consumer has a complaint and**
6 **wants to complain through the website, what do**
7 **they have to do?**

8 A I think we clarified that. I mean,
9 you can chat with them, and then you can submit
10 an e-mail or you can submit a ticket.

11 **Q And if you submit a ticket, does that**
12 **prompt some sort of chat?**

13 A No.

14 **Q What does that prompt?**

15 A A ticket that requires a follow-up by
16 our CSRs.

17 **Q And -- so do they follow-up via**
18 **e-mail?**

19 A They follow-up with a ticket link,
20 which eventually goes into an e-mail, yes.

21 **Q Okay. Did you ever personally speak**
22 **with complaining consumers about the sale of**
23 **covered products?**

24 A Yes.

25 **Q You did?**

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1 A I did.

2 Q And why is it that you ended up
3 speaking to them if it is the CSR's
4 responsibility?

5 A The CSRs are in India. I do
6 understand there's a cultural gap there. Many
7 consumers, when they speak to someone
8 internationally, right away think it's fraud,
9 especially when we're selling promotional
10 products and we're starting to sell PPE products.
11 So I started realizing that.

12 I started realizing that the
13 explanation of what was happening here was not
14 being conveyed properly by the CSRs. So any
15 disgruntled customers, they were given my
16 personal cell phone number, as well as Khalil's
17 personal cell phone number.

18 Q Was there anyone else that was dealing
19 with complaining customers outside of you and
20 Khalil and the CSRs?

21 A No, I don't think so.

22 Q And I'm going to go through a list of
23 complaints, and I want you to let me know if
24 Zaappaaz and you were aware of them.

25 Were you and Zaappaaz aware of

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1 and Zaappaaz were aware of complaints from
2 consumers that you weren't shipping products
3 within promised times.

4 MR. BLANCHARD: Objection. Asked and
5 answered.

6 THE WITNESS: Yeah, I'm trying to
7 clarify the term here so you understand what the
8 term is so there's no miscommunication here.

9 I was aware that the goods were not
10 being shipped on time, yes, and I clarified that
11 FedEx was not picking up the goods. Were they
12 being packed on time? Yes, they were being
13 packed on time.

14 BY MS. SCHAEFER:

15 Q That's not what I'm asking. I'm
16 talking about complaints from consumers, not what
17 you're telling me was happening. What consumers
18 were complaining about.

19 A Consumers were --

20 Q Consumers were complaining -- I didn't
21 say complaints about packaging. I saw complaints
22 mostly about shipping delays and delivery delays.

23 A Okay. So now we're talking the same
24 thing. I do recall those complaints, yes.

25 Q Okay. And this is all just complaints

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1 complaints that goods weren't shipping within
2 promised time?

3 MR. BLANCHARD: Objection.
4 Foundation.

5 THE WITNESS: Repeat that, please.

6 BY MS. SCHAEFER:

7 Q Are you or Zaappaaz aware of
8 complaints from consumers that Zaappaaz had
9 failed to ship goods within promised times?

10 A That the goods were not being
11 delivered on the promised time, yes. I was aware
12 of that.

13 Q Were you aware of complaints that
14 products weren't being shipped on time?

15 MR. BLANCHARD: Objection. Asked and
16 answered.

17 You can answer.

18 THE WITNESS: Shipped -- goods were
19 being packaged, shipped from the area, yes, I was
20 aware of that. Not being picked up by the
21 carrier, yes.

22 BY MS. SCHAEFER:

23 Q No. But my question is, were you
24 aware -- I'm not asking you to tell me if it's
25 true or not. I'm asking you whether or not you

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1 I'm talking about.

2 A Yes.

3 Q Are you and Zaappaaz aware of
4 complaints from consumers that you sold products
5 to them that were not in stock? Are you aware of
6 complaints that consumers were not receiving
7 products because you didn't have them in stock
8 when you sold them?

9 A Yes. I do recall complaints, yes.

10 Q Okay. And that's you and Zaappaaz.

11 A That's correct.

12 Q Is that right? Okay.

13 Did you and Zaappaaz receive
14 complaints that Zaappaaz was not providing
15 refunds as promised?

16 A Me? No. Zaappaaz? I don't think so
17 either. I'm sure we received complaints on
18 refunds not being processed, yes.

19 Q So you did receive complaints about
20 refunds not being processed?

21 A That's correct. Yes.

22 Q Did you and Zaappaaz receive
23 complaints about covered products being delivered
24 defective, broken?

25 A We did.

<p style="text-align: right;">165</p> <p>1 Q Did you receive complaints about 2 people receiving covered products that were 3 either inferior to what they ordered, a different 4 brand, wrong product? 5 MR. BLANCHARD: Objection. Compound. 6 You can answer. 7 THE WITNESS: Inferior, I don't think 8 so. 9 BY MS. SCHAEFER: 10 Q Say that again. 11 A Inferior? I don't think so. Maybe -- 12 Q Okay. 13 A Yeah. 14 Q What about that they received the 15 incorrect product, so if they ordered -- 16 A Absolutely. 17 Q -- a medium but got a large? 18 A Absolutely. 19 Q Did they complain about they wanted 20 one kind of sanitizer but they got another kind 21 of sanitizer? 22 A It's possible, yes. That is correct. 23 Q Did you and Zaappaaz receive 24 complaints that you -- Zaappaaz refused to honor 25 100 percent money-back guarantee?</p>	<p style="text-align: right;">167</p> <p>1 Objection. Lacks foundation. 2 THE WITNESS: I believe so. 3 BY MS. SCHAEFER: 4 Q Were you aware or Zaappaaz aware of 5 complaints from consumers that CSRs were lying to 6 them that shipments were on their way? 7 A Yes. 8 Q Did you receive complaints or Zaappaaz 9 that consumers wanted to cancel their order but 10 were told they could not? 11 A No. 12 Q Did you or Zaappaaz receive complaints 13 that consumers asked for a refund but were told 14 no? 15 A No. 16 Q Did consumers complain to you or 17 Zaappaaz that your website or advertising said 18 same-day shipping but that was not true? 19 A Yes. 20 Q So during these times when consumers 21 are calling because they haven't gotten their 22 product by the delivery date and wanted -- and 23 they asked for a refund, what was Zaappaaz's 24 policy? 25 A To issue a refund.</p>
<p style="text-align: right;">166</p> <p>1 A No. 2 Q Did you receive or Zaappaaz receive 3 complaints that tracking labels had been created 4 but the product had not been shipped yet? 5 A Yes. 6 Q Did you receive these complaints? Did 7 you receive complaints that consumers orders were 8 not tracking in FedEx? 9 A I don't know how that makes sense. I 10 don't remember the complaints, no. 11 Q Okay. Did you receive complaints that 12 no FedEx tracking sheets had been -- labels had 13 been created for consumers? 14 A No. I don't know. I don't know what 15 that means. There was no tracking created? 16 Q Correct. 17 MR. BLANCHARD: Objection. Lacks 18 foundation. 19 BY MS. SCHAEFER: 20 Q Let me try to clarify that. So did 21 you receive complaints from consumers that they 22 were supposed to have been shipped or delivered a 23 product, yet a tracking label hadn't even been 24 created yet? 25 MR. BLANCHARD: Objection. Compound.</p>	<p style="text-align: right;">168</p> <p>1 Q At any point if they hadn't received 2 the product? 3 A That is correct. Or if they received 4 the product, we would provide a return label to 5 send the product back. 6 Q Okay. And that's the instruction 7 given to the CSRs? 8 A That is correct. 9 Q Is that right? 10 A That is correct. 11 Q And is this policy about providing 12 refunds written anywhere? 13 A Everywhere. 14 Q Is it written anywhere? 15 A It's in our terms and conditions. 16 (Simultaneous crosstalk.) 17 THE WITNESS: It's in our terms and 18 conditions. 19 BY MS. SCHAEFER: 20 Q It's in your terms and conditions. 21 And are you saying that your policy with respect 22 to providing refunds when a customer has not 23 received the product on time, you're saying 24 that's in the terms and conditions? 25 A I don't think it's well-defined. But</p>

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1 no, it's -- it was a policy that we drafted or at
2 least was conveyed by me for all our customers.

3 **Q And when was this policy instituted?**

4 A I don't know when it was instituted.
5 But I could pretty much assure that I think all
6 my customers were refunded.

7 **Q Okay. Well, that's not what I'm**
8 **asking. I want to know what your policy was**
9 **starting March 2020 through the present, I guess,**
10 **as to when you would provide refunds.**

11 **So why don't you tell me the policies**
12 **starting in March 2020 as to when consumers are**
13 **entitled to refunds.**

14 A We didn't have a written policy, but I
15 think our -- our consensus to the CSRs were to
16 issue a refund for any customer that wanted a
17 refund, any customer that received a product that
18 did not want the product to send a return label
19 and get the product back and issue a refund.
20 That was the message that was conveyed to them.

21 **Q What about your policy with respect to**
22 **cancellations?**

23 A Refund. If the product hasn't
24 shipped, it was refunded.

25 **Q What -- okay. So this is if the**

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1 **product hasn't shipped and a consumer wants it**
2 **canceled and a refund. That's your policy to**
3 **give it to them?**

4 A Absolutely.

5 **Q What about when a product has shipped**
6 **and a consumer calls, hasn't received it yet by**
7 **the delivery date and wants a refund?**

8 A We would give them a return label to
9 send the product back, and we would issue a
10 refund.

11 **Q So if the product had left your hands,**
12 **you will not cancel or issue a refund until they**
13 **receive the product and then return it?**

14 A That's correct.

15 **Q Since March 2020, have you changed**
16 **your terms and conditions on your website to**
17 **reflect any of these refund policies or to make**
18 **any changes?**

19 A I think the policy's very simple now.
20 It's -- it's a straightforward just -- I think
21 the policy was there from the start. If the
22 customer does not want the goods and if we
23 haven't shipped it out, it's just a matter of
24 just issuing a refund.

25 **Q Well then --**

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1 A I'm sorry. Go ahead.

2 **Q So then why is it that certain during**
3 **March, April, May and other months, when**
4 **consumers would complain to CSRs that they wanted**
5 **a refund, they were told they could not obtain**
6 **one because --**

7 COURT REPORTER: Because of what?

8 MR. BLANCHARD: Objection. Calls for
9 speculation.

10 COURT REPORTER: I'm sorry. They
11 could not obtain one because of what?

12 MS. SCHAEFER: I lost my train of
13 thought. What was the last -- what was the last
14 part of the sentence you got.

15 COURT REPORTER: It says, "when
16 consumers would complain to CSRs that they wanted
17 a refund, they were told they could not obtain
18 one because --"

19 MS. SCHAEFER: Because covered
20 products were not refundable.

21 BY MS. SCHAEFER:

22 **Q Did you have a policy that covered**
23 **products were non-refundable?**

24 A We -- I believe we were not able to
25 take products back because of the PPE protocol --

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1 the COVID-19 protocols we had in place. We
2 didn't want contaminated goods coming back to us
3 because we were not a facility to recertify them.
4 The policy was not as -- if the order did not
5 ship, we would not issue a refund. That was not
6 the policy.

7 BY MS. SCHAEFER:

8 **Q Did some customer service agents**
9 **misrepresent the policy to consumers?**

10 A Absolutely did, and I think it was
11 because we started in March 20-something, we did
12 not expect any infusion of this many customers,
13 so the transference of information was not there.
14 And because of all this that was happening, I
15 believe they were not well-trained.

16 **Q What was the confusion of all these**
17 **customers you're referring to?**

18 A CSRs. The confusion with the CSRs.
19 That's what I'm referring to.

20 **Q They're confused about what the refund**
21 **and cancellation policy was?**

22 A Well, no. They weren't confused --
23 first of all, the CSRs were not authorized to
24 issue any refunds or cancellations. They were
25 only authorized to accept the refund and

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1 cancellations, and Fatima and Eroze were the ones
2 responsible to issue those cancellations and
3 refunds. So let's clarify that protocol first.
4 Sorry.

5 **Q Okay. Tell me that distinction again.**
6 **The CSRs have the power to --**

7 A To approve a refund or cancellation,
8 okay. But the transaction gets done on a
9 management level of Fatima and Eroze. They have
10 the administrative rights on their logins to
11 issue those refunds.

12 **Q And do they have autonomy, the Khans,**
13 **to decide who does and who doesn't get the**
14 **refund?**

15 A 100 percent.

16 **Q During this time, were you involved at**
17 **all starting in March 2020 with decisions**
18 **regarding the refunds or was it all up to the**
19 **Khans?**

20 A It was up -- it was up to them.

21 **Q And you had no control over --**

22 A I wouldn't say I didn't have control.
23 In April, we changed the policies. We clarified
24 it with the CSRs. We acknowledged the
25 complaints, and we addressed the complaints.

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1 But, I mean, it's my company. I'm not going to
2 say I didn't have control. I obviously had
3 control.

4 **Q I mean, you -- who instituted the**
5 **refund cancellation policy? I assume that's your**
6 **policy.**

7 A The refund cancellation policy has
8 been set for eight years before that. This was
9 nothing new. It was -- this is standard policy.
10 If the products are not shipped, then you can
11 issue a refund. If the products are shipped,
12 send a return label and get it back and issue a
13 refund. That's just the standard policy. It's
14 not something that we created in March of 2020.

15 **Q Okay. Let's go back to -- let's go**
16 **back to MITOR. And let's go to Paragraph 435.2.**
17 **Starting -- when you started selling covered**
18 **products at the end of March and advertised**
19 **shipping times, for example, didn't you advertise**
20 **at times same-day shipping?**

21 A For some products, yes.

22 **Q And what was your reasonable basis to**
23 **expect that they would ship within, you know, the**
24 **promised times, the covered products?**

25 MR. BLANCHARD: Objection. Calls for

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1 a legal conclusion.

2 THE WITNESS: We had -- we had the
3 goods either in our U.S. warehouse or we had the
4 goods in China. That was our reason for
5 believing that we could ship the same day, and we
6 had eight years of previous history of FedEx
7 shipping on time and delivering on the guidelines
8 that we were told. So that was our basis.

9 BY MS. SCHAEFER: &&

10 **Q Let's go to the next page, 435.2(a)(4)**
11 **and previously you testified I believe that your**
12 **FedEx numbers assured the shipment of merchandise**
13 **in the ordinary course of the advertised shipping**
14 **times. Is that still when you were selling**
15 **covered products, were you still relying on FedEx**
16 **numbers?**

17 A Correct.

18 MR. BLANCHARD: Objection and vague.
19 BY MS. SCHAEFER:

20 **Q Let's go to (b)(1). When you were**
21 **unable -- when Zaappaaz was unable to ship within**
22 **the advertised time, would it contact the**
23 **consumer to offer a refund and cancellation?**

24 MR. BLANCHARD: Objection. Form.

25 THE WITNESS: I think we did

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1 everything we could to give the customer the
2 option to cancel, take back -- take back the
3 products. I think it was pretty clear that we
4 were there for the customers in our e-mails that
5 we sent out to the customer.

6 (Zoom disruption.)

7 BY MS. SCHAEFER:

8 **Q What I was asking was whether Zaappaaz**
9 **contacted consumers when Zaappaaz wasn't able to**
10 **ship within the promised time to offer refunds**
11 **and cancellations.**

12 MR. BLANCHARD: Objection. Lacks
13 foundation.

14 Objection. Misstates prior testimony.

15 THE WITNESS: I answered that. I
16 believe we did everything we could to reach out
17 to the customers. Obviously we cannot reach out
18 to each individual customer. We sent out a
19 mailer. It was clearly stated we're there to
20 help them with anything they wanted to do.

21 We were willing to give them -- issue
22 a refund if they were not willing to wait for the
23 order. I think the e-mail was our way of letting
24 them know we're there, and we're letting them
25 know there is a delay in the orders and we're

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1 willing to offer our help wherever we can.

2 BY MS. SCHAEFER:

3 **Q So I have Zaappaaz 6 back up. Here's**
 4 **the e-mail that you sent to consumers. Where did**
 5 **it offer refunds or cancellations?**

6 A Never said the e-mail offered refund
 7 or cancellations. I said that was our intention.
 8 We said, "We're trying our best to speak to every
 9 customer. If you have any questions regarding
 10 your order or our company, please give us a call.
 11 You may also message us on our live chat. We
 12 will make sure your voice is heard, your
 13 questions and concerns are addressed, and deliver
 14 your order as soon as possible."

15 **Q Okay. And that -- are you saying that**
 16 **that is suggesting that you will refund and**
 17 **cancel orders that aren't shipped on time?**

18 A That is suggesting a lot more than
 19 that, but that is suggesting those matters as
 20 well.

21 **Q So if things weren't shipped within**
 22 **the promised time, they have -- consumers had to**
 23 **contact you, you didn't contact them?**

24 A It was not possible for us to contact
 25 them, correct.

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1 **Q Why not?**

2 A We were processing 2,000 orders, 3,000
 3 orders a day. It was logistically impossible to
 4 call 3,000 customers every day.

5 **Q When were the complaints at the**
 6 **highest in terms of month?**

7 A Maybe around April, first half of
 8 April.

9 **Q What happened the second half?**

10 A The world started adjusting slowly as
 11 the progression line started going up.

12 **Q And the complaints, did you start**
 13 **receiving less complaints?**

14 A Okay. Well, when a customer orders in
 15 March, the complaint usually would come end of
 16 March. Is that clear? I just want to make sure
 17 I'm phrasing my answer correctly.

18 When a customer orders March 21st,
 19 you're not going to get the complaint that day or
 20 the next day. You're going to get it probably
 21 five or six days after. So yes, maybe the orders
 22 that were placed in the early part of April, the
 23 first half of April, is when we started getting
 24 those complaints in the second half of April to
 25 the first half of May.

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1 **Q Okay. And then what about in May?**

2 A We started getting reduction of
 3 complaints, started going down significantly.

4 **Q And then what about June?**

5 A I don't have the metrics or the data,
 6 but from my knowledge, I think the improvement
 7 started happening month over month unless there
 8 was another drastic issue that happened that I'm
 9 not aware of at the current time. Yes, I believe
 10 it was an improvement as we went on.

11 **Q Tell me, again, when did you start**
 12 **shipping directly from the warehouse?**

13 A I don't know exact date. Maybe early
 14 April.

15 **Q And did you continue to ship from**
 16 **China directly as well?**

17 A Not from April onwards. Around April
 18 when the limitations happened, the restrictions
 19 happened, we weren't allowed to.

20 **Q So in April, you start shipping from**
 21 **your warehouse because you're no longer allowed**
 22 **to ship from China directly to the consumer?**

23 A Yeah. You remember we went over the
 24 Rosemary's testimony, how China set restrictions
 25 on imports, also the FedEx e-mail that you

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1 mentioned.

2 **Q I understand. I thought those were**
 3 **restrictions on shipping. I didn't know it**
 4 **prevented --**

5 A They were --

6 **Q I'm sorry. My earphones came off. I**
 7 **didn't hear what you said.**

8 A Those were also restrictions.
 9 Remember I mentioned we were only allowed to ship
 10 a certain amount, like commercial goods. I think
 11 it was -- I don't know what the limitations on
 12 kilos was. It was a certain amount of kilos we
 13 had to ship every shipment and one per address
 14 because they wanted to limit the small packages
 15 going out of China. They wanted large bulk
 16 packages to go out so the demand could be met.

17 **Q But you were -- I see. So then you**
 18 **started shipping directly to your warehouse?**

19 A Correct. What I mean by directly to
 20 the warehouse, I did not ship it directly to my
 21 warehouse. I could only ship one package per day
 22 to my warehouse. So I shipped it to friends' and
 23 family's addresses. We picked it up, and then we
 24 brought it to our warehouse.

25 **Q Okay. And how long did that system**

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1 last?

2 A I want to say it lasted three weeks,
3 four weeks.

4 Q And after those three weeks and four
5 weeks, did you start shipping from China directly
6 to consumers again?

7 A No. You couldn't. You still can't.

8 Q You still can't. So that system
9 lasted about a month. So then what was the next
10 system?

11 A The next system was opening up
12 multiple addresses -- we didn't need to use
13 multiple addresses. We could ship everything
14 directly to our warehouse.

15 Q I see. And how long did that policy
16 last?

17 A It's still intact.

18 Q Okay. And so currently, tell me how
19 you ship covered products to consumers. In
20 other -- just to clarify, in other words, you
21 know you have China, you have your warehouse, you
22 have consumers --

23 A Yeah, 90 -- 99 percent is being
24 shipped from our warehouse. Sorry. 99 percent
25 is being shipped from our warehouse.

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1 Q Okay. When you started shipping from
2 your warehouse, did that address the logistical
3 problems you had been having?

4 A Not immediately because we were having
5 issues of our FedEx being picked up, but that did
6 not last as long as how it lasted in China. It
7 was pretty quickly resolved here domestically.

8 Q So did there come a time when things
9 got back to, I'll call it, the normal course
10 where you were able to ship within advertised
11 times and within the delivery times?

12 MR. BLANCHARD: Objection. Form.

13 Objection. Misstates prior testimony.

14 Objection. Lacks foundation.

15 THE WITNESS: Domestically, yes,
16 things started getting back to normal pretty
17 quickly. I think that was something
18 controllable. There was no restrictions. No
19 customs, no government involvement. I have think
20 FedEx just needed to get their HR in place.

21 Domestically, even now, I'm telling
22 you there is still restrictions on PPE being
23 shipped from overseas. I hope I answered the
24 question. I don't know if I completed the
25 question.

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1 BY MS. SCHAEFER:

2 Q Do you continue to experience, you
3 know, issues with deliveries and shipments to the
4 extent you did in March and April and May?

5 A To the extent in March, April, and
6 May, no. But delivery from China to the U.S. has
7 not come par level to what it was pre-pandemic.

8 Q So you still experience some delay?
9 Do you still experience some logistical problems?

10 A Through FedEx, yes. I don't know if
11 they call it logistical problem. Now FedEx is
12 just stating it's going to take two or three days
13 more. I don't call it a logistical problem.
14 It's just something we just have to adjust to
15 their recommendations.

16 MS. SCHAEFER: Okay. I think what I'd
17 like to do now is, there are several charts that
18 we'd like to go over with you to understand them.
19 I don't know if we want to take a quick break
20 right now.

21 MR. BLANCHARD: Yeah, let's take a
22 five-minute break, if that's okay.

23 MS. SCHAEFER: Okay. Sure. Mike, we
24 can go off the record.

25 (A brief recess was taken.)

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1 MS. SCHAEFER: Now I hope this works.
2 Can you see the spreadsheet?

3 MR. BLANCHARD: No.

4 MS. SCHAEFER: Do you see it now?

5 MR. BLANCHARD: No.

6 MS. SCHAEFER: Now?

7 MR. BLANCHARD: No. Are you sharing
8 your screen, or is it going on Agile?

9 MS. SCHAEFER: No. I wanted to share
10 my screen. I thought I did it. Do you see it
11 now?

12 MR. BLANCHARD: We see a blank --
13 there you go. There it is. Now we see your
14 folder.

15 MS. SCHAEFER: Do you see that?

16 MR. BLANCHARD: We see your folder.

17 MS. SCHAEFER: My folder?

18 MR. BLANCHARD: There's the
19 spreadsheet.

20 MS. SCHAEFER: Do you see it?

21 MR. BLANCHARD: Yes.

22 BY MS. SCHAEFER:

23 Q So I want to go through various
24 spreadsheets that were produced so that we can
25 understand the information in them. So this is

<p style="text-align: right;">185</p> <p>1 Zaappaaz 40, which will become Zaappaaz 14. So 2 what information does this spreadsheet contain? 3 MR. BLANCHARD: Objection. Form. 4 Can we just go up and down? 5 MS. SCHAEFER: What's that? 6 MR. BLANCHARD: Could we just go 7 column by column? 8 MS. SCHAEFER: Sure. 9 BY MS. SCHAEFER: 10 Q What is this? 11 A Column A is the order I.D., date of 12 the order, product name, SKU, product price, 13 quantity, shipping days. 14 Q What are shipping days? 15 A Whatever the number of shipping -- if 16 they want it overnight, if they want it in two 17 days, if they want it in three days, or they want 18 it five days. Whatever shipping days are being 19 offered. 20 Q Okay. So this -- these are the 21 shipping days? 22 A Correct. 23 Q That this -- that the consumer pays 24 for this many days to get the product, okay. 25 Shipping price. That's just -- that's consumer</p>	<p style="text-align: right;">187</p> <p>1 international shipments. It looks like it's 2 through -- 3 A It's PPE products, I believe. 4 Q Through October, okay. So why would 5 there be two tracking numbers in here? 6 A Are these -- are these just refunded, 7 because I see on the right it says cancel, 8 refund. Or are you filtering by that? I'm not 9 understanding what sheet you have opened. 10 Q Okay. So do you see on Column U -- 11 look at Column T. I'm looking at Column T. 12 A The question to your answer, sometimes 13 when you send two packages, it's one of two 14 packages so they have different trackings. 15 Q I see. What about to the extent 16 something that's sent from China to your 17 warehouse in Texas and gets shipped directly to 18 the consumer, how is that, you know, tracking 19 tracked? 20 A That's -- 21 (Simultaneous crosstalk.). 22 THE WITNESS: That won't show up on 23 this. It will show -- we just had those 24 trackings internally. But then it goes into 25 Shipping Easy, and then Shipping Easy feeds that</p>
<p style="text-align: right;">186</p> <p>1 information, first name, last name, e-mail. I'm 2 just going through this because I think this 3 speaks for itself. 4 A Yes. 5 Q What's that? 6 A The total. I think that's the total 7 amount -- total cost of the order. 8 Q What's this tracking? 9 A That's the FedEx tracking. 10 Q Now, I think you said that you used -- 11 Zaappaaz used FedEx and UPS. Did it use FedEx 12 more? 13 A It wasn't my call, but domestically we 14 used FedEx the most, yes. 15 Q And what about internationally? 16 A That wasn't my call. It was based on 17 their algorithm. I believe it was mostly FedEx. 18 Q I just want to -- so some are USPS? 19 A Some are domestic. 20 Q What about the UPS? 21 A UPS could be domestic or 22 international, but I think they're mostly 23 international. 24 Q And so this spreadsheet, let's look at 25 the dates, contain domestic shipments and</p>	<p style="text-align: right;">188</p> <p>1 tracking into our system. 2 BY MS. SCHAEFER: 3 Q Okay. Can you walk me through that 4 again. I got confused. 5 A I don't know where these orders are 6 coming from. So let's say it's shipped from 7 China to the consumer. The trackings will 8 automatically go into our system if the orders 9 got ship -- if the goods got shipped from China 10 to our warehouse, and we would basically create 11 the label from our warehouse using the Shipping 12 Easy software. And once it printed that label, 13 that software would automatically send a code 14 back to our backend and update that tracking. 15 Q And like replace it with the old one? 16 A There would not be an old one. 17 Q So would it be the one that came 18 from -- 19 A Shipping Easy. 20 Q Okay. All right. And then here, 21 what's tracking date, Column U? I'm sorry. 22 What's tracking date represent? 23 A I do not know what tracking date is. 24 It could -- 25 Q Who would know?</p>

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1 A Could be -- I mean, I could probably
2 decipher it pretty quickly. It might be just
3 FedEx -- when FedEx was given the products, if
4 you maybe open up one of the trackings and check
5 it. I think that's what it is. Priyank would
6 definitely know what tracking -- tracking date
7 is. I believe -- I'm pretty confident that's
8 what it means.

9 **Q Who will definitely know?**

10 A Priyank, the developer.

11 **Q He is the one that pulls this data for
12 you?**

13 A That is correct.

14 **Q Does all this data come from his
15 database we were speaking of earlier?**

16 A That is correct.

17 **Q You think tracking date might be the
18 day it's put into FedEx's hands?**

19 A It could be that, or it could be when
20 it was submitted -- when it was -- when we
21 received the code for the tracking in our system,
22 which should be very similar time frames. It's
23 one of those.

24 **Q Okay. But that's something -- I mean,
25 you could follow-up with Priyank and get us**

190

1 **information?**

2 A Sure. We can figure that out.

3 **Q Okay. So and, you know, we're going
4 to go through a bunch of spreadsheets. We might
5 need his help to the extent you don't know. So
6 that's something. I think a lot of this
7 information is going to come up in the chart.
8 Again, we might need to talk to him.**

9 **So payment method, that's how they
10 paid?**

11 A Correct.

12 **Q And this is refund amount?**

13 A Right.

14 **Q And then you have the reason --**

15 A Yes. That is the refund amount,
16 correct.

17 **Q And then the reason for the refund?**

18 A It's a very generic reason, yes.

19 **Q Do those reasons come from your
20 payment processors codes or do they come from
21 your codes?**

22 A No. These were just internal
23 dropdowns that they select.

24 **Q So the reasons are internal categories
25 that Zaappaaz made?**

191

1 A Correct.

2 **Q Okay. Then refund date?**

3 A Yes. It's refund date.

4 **Q And then order status?**

5 A Yes.

6 **Q When these refunds are issued, who is
7 issuing them? Is it --**

8 A Eroze and Fatima.

9 **Q I'm sorry. What was that?**

10 A Go ahead. I'm sorry. Finish your
11 question.

12 **Q So when you issue refunds to
13 consumers, these refunds in this spreadsheet, do
14 the funds come out of your bank account for
15 Zaappaaz? Do they come from your payment
16 processor's reserves? Does it depend? I'm just
17 trying to figure out who was actually issuing the
18 money.**

19 A Yeah. It totally depends. Obviously
20 during this time period, it probably didn't come
21 out from our bank account. It probably came out
22 from reserves. There were instances it did come
23 out from the bank account.

24 **Q Tell me about reserves. Explain to me
25 how that works.**

192

1 A So if you place an order on our
2 website today, the processor if you -- if you
3 place the order at 8 a.m., the processor will
4 batch -- every order that came up 8 a.m. I think
5 it's to like 4 p.m. and they would batch it, and
6 they would send it. And then I would get it the
7 next day. But anything that came after 4 p.m.
8 all the way until -- anything that came after 4
9 p.m. until the following 4 p.m., I would get it,
10 and that would batch all in, once again, and I
11 would get it the following day.

12 Does that make sense?

13 **Q No. I'm not sure that makes sense to
14 me. It's not you. It's me. Can you try to
15 explain that again?**

16 A So any orders -- so our batch happens
17 at 4 p.m., something like that 4 p.m. So
18 anything -- any charges that happen before 4 p.m.
19 get batched and then they get submitted to our
20 bank, and we receive it the following day.

21 So now -- like today right now, if you
22 place an order, it's 3:53. Let's assume it's
23 4:53 right now. If you place the order today, I
24 won't receive the funds that you -- that I
25 received right now, I won't get it tomorrow.

193

1 I'll get it the day after.

2 **Q Okay. We can go over that later. I**
3 **have more questions about payment processing.**
4 **The documents might clear it up.**

5 **Are these refunds indicated in this**
6 **chart only related to payment processing disputes**
7 **or these are all refunds?**

8 A These are just refunds.

9 **Q These are just refunds via was it a**
10 **chargeback dispute or you guys gave a refund**
11 **outside of the credit card process; is that**
12 **right?**

13 A Correct. I believe this is just
14 refunds that we've done.

15 **Q Okay. So there's 5,152 entries. Does**
16 **that seem right?**

17 A 6,152?

18 **Q Oh, is that 6? Is that 6?**

19 A I think it looks like a 6. Yeah.

20 **Q Okay.**

21 A Yes. I mean, I think it's less than
22 that since there's a lot of duplicates in there.
23 Like, for example -- it's pretty close to that
24 number, I guess.

25 **Q What does it mean in order status that**

194

1 **something is canceled?**

2 A Customer returned it. Customer does
3 not want it. Customer does not like it. In this
4 case, it looks like a duplicate order. The
5 customer placed it twice.

6 **Q So when an order -- I'm looking at**
7 **under AC, the second entry it says canceled and**
8 **refund. So that would mean this order was**
9 **canceled and a refund was provided?**

10 A Correct.

11 **Q Correct?**

12 A Correct.

13 **Q And what's the difference between**
14 **something that's canceled and something that's**
15 **refunded?**

16 A Refunded is probably a portion that's
17 refunded. Maybe they didn't want a certain item
18 or maybe -- I don't know. I don't know. I don't
19 think -- not there's any reason for canceled or
20 refunded. I don't think it holds any bearings
21 from my knowledge. I think it's the same
22 concept.

23 **Q And why is the refund sometimes zero**
24 **and zero?**

25 A I don't think -- --

195

1 MR. BLANCHARD: Hold on. Those are
2 discount -- Michelle, Column W, I don't know
3 what -- Column W says refund amount.

4 MS. SCHAEFER: Right. So then -- like
5 I'm on -- can you guys see where my cursor is
6 when I do this?

7 MR. BLANCHARD: Yes.

8 BY MS. SCHAEFER:

9 **Q So here I'm on AC, and it says**
10 **refunded. But then you have a zero refund. So**
11 **what do those mean?**

12 A One thing I'm seeing right now if you
13 look at -- what is that? 15, 16, and 17, are
14 they all the same orders? If you go to the left,
15 can you just check the customer name?

16 **Q 15 is -- no, 15, 16, they're all**
17 **different.**

18 A Okay. If you can scroll to the right.

19 **Q This one is canceled zero. It looks**
20 **like they didn't -- would that be because they**
21 **didn't pay anything before it got canceled?**

22 A No. If it's a credit card, it gets
23 charged. It gets charged. Now what I can think
24 that this is, if you do a credit card
25 transaction, it goes on hold, and it does not

196

1 batch. So let's say you place an order now and
2 call in within two hours and want to cancel, the
3 funds hasn't batched, so it just zeroes out.

4 **Q Okay.**

5 A I think that's what it means. But the
6 other one is probably like the one that shows an
7 amount, it's probably got batched. It got
8 credited to our bank, and then basically, we had
9 to issue a refund. So it basically reversed it
10 back.

11 **Q Okay. Walk me through that again.**

12 A So if you place an order today,
13 Michelle, you place an order right now, and in an
14 hour you call me and you say you want to cancel
15 it, you -- I don't have the funds nor -- nor has
16 the funds come out of your bank either. They
17 just basically null it because it hasn't batched.

18 Now, if you call me tomorrow, I
19 potentially received the funds already in my
20 bank. Now the bank has to pull the funds out of
21 my account and put it back into your account.
22 That's where a refund would technically be
23 considered a refund. I think that's what it
24 means.

25 **Q So does this not include -- that's why**

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1 **I asked before. Does this not include**
2 **chargebacks or it does?**

3 A I don't think so. I don't think so.
4 It might overlap some chargebacks, but I don't
5 think so. Not all of them. I think it probably
6 includes a portion of them. I think we have --
7 we have a category of chargebacks as well.
8 That's a whole different category of order
9 status. If there's a chargeback that occurs, I
10 think we categorize that as chargebacks, if I
11 remember right.

12 **Q You mean on one of the other charts?**

13 A I believe so, yes.

14 **Q I mean, there are a Stripe chart and a**
15 **Braintree chart that you produced. So are you**
16 **saying -- we'll go through those later.**

17 **Are you saying you think those contain**
18 **the chargeback?**

19 A I think these are -- these are refunds
20 that are done internally in our system. These
21 are -- I don't think these have any relationship
22 to chargebacks.

23 **Q Okay. So these are -- these are**
24 **coming from your Zaappaaz bank account?**

25 A Correct.

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1 **Q Okay.**

2 A Not particularly the bank account but,
3 you know, just --

4 **Q How else would you refund? Because I**
5 **see you have your Zaappaaz Texas First Bank.**

6 A It doesn't necessarily need to come
7 out from our bank. It could come out from our
8 reserves and our processor.

9 **Q I see. Okay. I see. Okay.**

10 **Why is it sometimes zero-zero?**

11 A Well, the tax is going to be zero.
12 The refund amount I mentioned is because maybe
13 they canceled at the same time or -- I don't have
14 a clear clarity on that one.

15 **Q Okay. That would be helpful clarity**
16 **on why some of these are zeroes. And then some**
17 **are just blank, right?**

18 A Like?

19 **Q Let me see an example here.**

20 MR. BLANCHARD: Michelle, I have an
21 idea. Given what I heard so far, why don't we
22 defer the spreadsheets to tomorrow, and we'll try
23 and have some more clarity about them. Will that
24 be okay?

25 MS. SCHAEFER: Sure. Okay. So you

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1 want to do all the spreadsheets tomorrow?

2 MR. BLANCHARD: Yes.

3 MS. SCHAEFER: Okay. That's fine.

4 And just so you know, I am planning on going
5 through -- I can give you the numbers. There's
6 quite a bit of them.

7 MR. BLANCHARD: Yeah. If you can give
8 me that, that way I can -- do you want to give me
9 the Bates numbers? Okay. Give me one second.

10 MS. SCHAEFER: Okay. So --

11 MR. BLANCHARD: All right. I'm ready.

12 MS. SCHAEFER: There's Zaappaaz 40,
13 Zaappaaz 41, Zaappaaz 38, Zaappaaz 39, Zaappaaz
14 51, 46, 49, 62, 41, and 50.

15 MR. BLANCHARD: Okay.

16 MS. SCHAEFER: And it will be helpful,
17 there's a lot of them, but they all seem to
18 overlap in terms of some of these issues.

19 MR. BLANCHARD: I think they do. And
20 that way we'll also be able to tell you if
21 there's any -- we'll be ready on those tomorrow,
22 okay.

23 MS. SCHAEFER: Okay. That's fine.

24 BY MS. SCHAEFER:

25 **Q So, you testified that -- let me talk**

200

1 **about payment processors now. You testified that**
2 **Pay Pal was one of your payment processors. Are**
3 **you still using Pay Pal?**

4 A I am.

5 **Q Okay. Why don't you take a look at**
6 **this e-mail and then let me know when you're**
7 **ready.**

8 MR. BLANCHARD: We don't have a new
9 document up on Agile.

10 MS. SCHAEFER: Oh, my God. You're
11 right.

12 MR. BLANCHARD: Your next one should
13 be 15.

14 MS. SCHAEFER: I messed up. So this
15 should be 15. I wonder if there's a way to
16 remark it.

17 MR. BLANCHARD: Why don't we mark all
18 the charts tomorrow and just use 14 for this
19 e-mail.

20 MS. SCHAEFER: Sounds good.

21 (Deposition Exhibit Number 14 was
22 marked for identification and attached to the
23 transcript.)

24 BY MS. SCHAEFER:

25 **Q Do you see it now?**

201

1 A Yes.

2 **Q Tell me what's going on. What's the**
3 **context of this e-mail between you, Khalil, and**
4 **Pay Pal?**

5 A Keep going. There's a total of six
6 pages.

7 MR. BLANCHARD: Oh, geez, yeah. Do
8 you want to start at the very bottom?

9 THE WITNESS: I think Pay Pal is
10 holding our funds because of the number of
11 chargebacks based on -- usually you would get
12 four or five chargebacks maybe, and we were
13 getting a X number of chargebacks. But I don't
14 think I responded to any of these. I think
15 Khalil was responding on behalf of me.

16 What's going on here is Pay Pal is
17 just making sure that whatever we're doing is
18 legit, which we provided all documents, and the
19 funds were released.

20 BY MS. SCHAEFER:

21 **Q What -- why were they holding the**
22 **funds? Are these reserves they're holding?**

23 A Yeah. They're reserves.

24 **Q Do payment processors always hold**
25 **reserves?**

202

1 A Not always, no.

2 **Q When do they hold reserves?**

3 A Well, if you go from a million dollars
4 a year to \$10 million a year overnight, that's
5 when they'll start raising alarms because they
6 are the underwriters to your business. At the
7 end of the day, the buck stops at them to cover
8 the funds. So that's one reason.

9 A significant amount of chargeback
10 based off the original threshold of what we're
11 currently doing, if that increases, that also
12 causes them to hold reserves. In this case, they
13 just wanted to make sure we were getting the
14 goods out, and they wanted the tracking numbers
15 of our products. So I think that's what made us
16 get our funds released.

17 **Q Okay. And Khalil is dealing, for the**
18 **most part, with Pay Pal?**

19 A Yeah. This looks like all of Khalil's
20 messages. This is not something I would write on
21 e-mails.

22 **Q You were aware of these, and you were**
23 **included though?**

24 A Yes, but -- yeah, I was aware -- I was
25 aware of the hold on Pay Pal.

203

1 **Q Why do they need the tracking numbers?**
2 **What's that going to show them?**

3 A That the goods had shipped. I don't
4 think this risk was involving chargebacks. I
5 think it was involving because of the volume of
6 commerce we were doing, the increase in commerce.

7 **Q I'm sorry. It takes me a while to**
8 **pull up these exhibits.**

9 A No worries.

10 **Q Sorry. Something very strange is**
11 **happening here. I can't find this exhibit. Do**
12 **you remember whether Fatima Khan had access to**
13 **Zaappaaz's Pay Pal account?**

14 A Yes, she did.

15 **Q And why did she have access to it?**

16 A So she could issue refunds.

17 **Q Who else had access to it?**

18 A I did. Khalil did.

19 **Q Okay.**

20 A And the sales team did.

21 **Q So you could issue refunds directly**
22 **from your Pay Pal merchant account?**

23 A Yeah. We weren't able to do it from
24 our backend. We had to do it straight from our
25 Pay Pal merchant account.

204

1 **Q Okay. So this is Zaappaaz 15 is a**
2 **message from Braintree.**

3 (Deposition Exhibit Number 15 was
4 marked for identification and attached to the
5 transcript.)

6 BY MS. SCHAEFER:

7 **Q So this is May 10th. Why was your**
8 **account suspended?**

9 A This was because of chargebacks, the
10 increase in chargeback volumes.

11 **Q Was it ever unsuspended?**

12 A This was -- yes, it was unsuspended at
13 a period of time. But we had transitioned over
14 to Stripe.

15 **Q When did you stop using Braintree?**

16 A Pretty much immediately. We started
17 Stripe literally within 24 to 48 hours, something
18 like that.

19 **Q And then you stopped using -- wait.**
20 **Within 24 to 48 hours of what?**

21 A Of our account being suspended.

22 **Q So it gets suspended in May; is that**
23 **right?**

24 A I believe we started Strike maybe even
25 in March -- sorry.

<p style="text-align: right;">205</p> <p>1 Q Okay.</p> <p>2 A April-ish maybe.</p> <p>3 Q Okay.</p> <p>4 A I think -- we overlap at some point.</p> <p>5 MS. SCHAEFER: So there is a Braintree</p> <p>6 chart that I wanted to look at, and I don't know</p> <p>7 if you -- Mike, if you want me to wait until</p> <p>8 tomorrow or if we should go ahead and look at the</p> <p>9 Braintree chart now.</p> <p>10 MR. BLANCHARD: Let's look at it.</p> <p>11 MS. SCHAEFER: And again, this is a</p> <p>12 spreadsheet. So I'm going -- the spreadsheet</p> <p>13 will be 16.</p> <p>14 (Deposition Exhibit Number 16 was</p> <p>15 marked for identification and attached to the</p> <p>16 transcript.)</p> <p>17 BY MS. SCHAEFER: Let's try this</p> <p>18 again. Do you guys see it?</p> <p>19 MR. BLANCHARD: Yes. It's kind of</p> <p>20 small.</p> <p>21 MS. SCHAEFER: I'll make it bigger.</p> <p>22 Is this good?</p> <p>23 MR. BLANCHARD: Yes, that's good.</p> <p>24 MS. SCHAEFER: Okay.</p> <p>25 BY MS. SCHAEFER:</p>	<p style="text-align: right;">207</p> <p>1 discretion. If they consider it a fraud, it's</p> <p>2 100 percent the consumer's --</p> <p>3 Q It's the consumer's bank that makes</p> <p>4 the decision ultimately?</p> <p>5 A That's correct.</p> <p>6 Q And it's the payment processor that</p> <p>7 adjudicates it or receives information from --</p> <p>8 A Yeah.</p> <p>9 (Simultaneous Crosstalk).</p> <p>10 BY MS. SCHAEFER:</p> <p>11 Q But they don't make a decision. They</p> <p>12 just get all the evidence to share between the</p> <p>13 parties; is that right?</p> <p>14 A They're the mediators.</p> <p>15 Q They're the mediators. All right.</p> <p>16 So then the transaction date is the</p> <p>17 date of the order?</p> <p>18 A Correct.</p> <p>19 Q What is this?</p> <p>20 A What is that? The Column I?</p> <p>21 Q J.</p> <p>22 A Maybe that's not a data point they use</p> <p>23 for us.</p> <p>24 Q They're all blank. Okay. Let's go --</p> <p>25 so this is -- you see these choices, the dropdown</p>
<p style="text-align: right;">206</p> <p>1 Q Let's do what we did. This is message</p> <p>2 date, what does that mean?</p> <p>3 A That might be the transaction date.</p> <p>4 Q Is it the date that the consumer made</p> <p>5 the order or the dispute was logged?</p> <p>6 A The dispute -- the transaction date is</p> <p>7 on I.</p> <p>8 Q Oh, okay. I see. So then this is the</p> <p>9 chargeback case number?</p> <p>10 A Correct.</p> <p>11 Q Cardholder, this is the acquiring</p> <p>12 bank; is that right?</p> <p>13 A Correct.</p> <p>14 Q This is the disputed amount, currency.</p> <p>15 So reason code. Do these come from Stripe?</p> <p>16 A Those come from Braintree, if you're</p> <p>17 saying this Braintree.</p> <p>18 Q I'm sorry. So here what does that</p> <p>19 mean?</p> <p>20 A It means it's under review.</p> <p>21 Q Who reviews these transactions?</p> <p>22 A The processor.</p> <p>23 Q And who determines whether they're</p> <p>24 going to give the chargeback or not?</p> <p>25 A Ultimately, it's the consumer's</p>	<p style="text-align: right;">208</p> <p>1 list?</p> <p>2 A Yes.</p> <p>3 Q So close case, no issue, or response,</p> <p>4 does that mean the consumer bank never made a</p> <p>5 decision?</p> <p>6 A Maybe they received the products and</p> <p>7 they didn't want to dispute it any further. So</p> <p>8 it just got closed.</p> <p>9 Q Oh, the consumer closed it?</p> <p>10 A Correct. I think that's what it</p> <p>11 means.</p> <p>12 Q Okay. And filing under review?</p> <p>13 A It's still under review. We submitted</p> <p>14 our response. They submitted their response, now</p> <p>15 it's whatever the action needs to be taken.</p> <p>16 Q And then submission approved?</p> <p>17 A Submission approved, I believe this</p> <p>18 might mean that it's approved for us in our</p> <p>19 favor. And you might be able to verify that with</p> <p>20 Column P based on what it says.</p> <p>21 Q Okay. And then submission sent to</p> <p>22 issuer?</p> <p>23 A Yes. So I believe that basically</p> <p>24 submits our documents to the issuer. So we give</p> <p>25 any supporting documents, they send it to the</p>

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1 issuer.

2 **Q And then submission under review, it's**
3 **being considered?**

4 A Yes.

5 **Q And what's your acceptance received?**

6 A Okay. So that's something that we
7 would accept that we accept the dispute.

8 **Q And you will give a refund or**
9 **chargeback?**

10 A The processor will do it automatically
11 since it's already -- the funds are being held.
12 All these funds are being held.

13 **Q All these funds are what's that?**

14 A They are being held already.

15 **Q Okay. As reserves?**

16 A In some sort of fashion, I guess. I
17 would assume it's just reserves, yeah.

18 **Q And this is the mer- -- your merchant**
19 **number --**

20 A Mm-hmm.

21 **Q -- with Braintree? You're the**
22 **merchant. It's all Wrist-band. I guess I'm**
23 **wondering -- what's that?**

24 MR. BLANCHARD: I need to clear up the
25 screen here. Hold on one second.

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1 MS. SCHAEFER: Just let me know if I
2 can ask --

3 MR. BLANCHARD: We're good.
4 BY MS. SCHAEFER:

5 **Q I have this dropdown menu, and I want**
6 **to know -- okay. Reversal request has been**
7 **approved, what does that mean?**

8 A That means the customer received their
9 funds back.

10 **Q Okay. Your account will be adjusted**
11 **means your account?**

12 A My account.

13 **Q So your account will be adjusted and**
14 **it's coming from the reserves?**

15 A Correct.

16 **Q Reversal request has been denied, is**
17 **that the consumer lost?**

18 A Yes.

19 **Q Do you know the reversal request has**
20 **been denied?**

21 A What is that?

22 **Q I don't know what everybody saw. It**
23 **says here right here --**

24 MR. BLANCHARD: I think that should
25 say reversal.

211

1 BY MS. SCHAEFER:

2 **Q And that means the company won?**

3 A Resolved meaning either we issued a
4 refund or the customer agreed. It means that
5 there is no dispute any more. It's been
6 resolved.

7 **Q Reversal request had been denied?**

8 A No, no. It said reversal something
9 has been resolved. Is that what it was?

10 **Q No, I meant -- first of all, I didn't**
11 **know this was reversal. So --**

12 A Okay.

13 **Q It says reversal request has been**
14 **denied.**

15 A That means we won. The company won.

16 **Q Right. Okay. I think these all kind**
17 **of speak for themselves. Okay. And so actually**
18 **let me see. So you won some here and you lost**
19 **some here. And this indicates, as we just went**
20 **through the choices, the terms meaning that you**
21 **lost some disputes and terms meaning the consumer**
22 **won the dispute. Are all these -- these are all**
23 **Braintree chargebacks?**

24 A Yes. It seems like Braintree.

25 **Q So one thing that I'm wondering is for**

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1 **the codes, the reason codes, is that something**
2 **that is provided to you by Braintree?**

3 A That is correct.

4 **Q Okay. And do you have documents**
5 **showing what these codes mean?**

6 A I do not, no. Maybe it's public data
7 though.

8 **Q Well, I know -- so I have in the**
9 **production codes that are Fiserv which is also**
10 **known as First Data, and I'm wondering if those**
11 **are the appropriate ones. Do you know if**
12 **Braintree is an independent sales organization or**
13 **merchant service provider for Fiserv?**

14 A So Braintree is a gateway, and First
15 Data or Fiserv is the processor. So I can use
16 Fiserv on Braintree. It's just a little gateway
17 that does the charges. Those are probably coming
18 straight from First Data.

19 **Q Okay. Yeah.**

20 A And then Braintree is a processor via
21 Pay Pal.

22 **Q Say that -- what's a processor for Pay**
23 **Pal?**

24 A Braintree also can be a processor via
25 Pay Pal. It's owned by Pay Pal. You don't

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1 necessarily have to use Pay Pal as your
2 processor.

3 **Q Do these transactions, the merchant**
4 **name is Wrist-band, but are they associated with**
5 **Wrist-band.com and CustomLanyard.net?**

6 A Yes.

7 **Q Some of the other websites that**
8 **Zaappaaz, you know, maintains?**

9 A Correct. They're all linked to that.

10 **Q We can close out of that. We're next**
11 **on 17; is that right?**

12 MR. BLANCHARD: Yes.

13 (Deposition Exhibit Number 17 was
14 marked for identification and attached to the
15 transcript.)

16 BY MS. SCHAEFER:

17 **Q So here is an e-mail string related to**
18 **Empire Paytech and Fiserv. Why don't you go**
19 **ahead and read it and tell me when you're done.**

20 A All good.

21 **Q First of all, who is Karishma Sharif?**

22 A She is an employee at Empire Paytech.

23 **Q What services did she provide for you**
24 **for Zaappaaz?**

25 MR. BLANCHARD: Objection. Form,

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1 had a communication direct with Fiserv in terms
2 of processing transactions. We might have had it
3 in terms of releasing funds. She's the one that
4 set us up with that processor.

5 **Q Here it seems like Karishma is talking**
6 **to Daniel at Fiserv, and they're talking about**
7 **amounts being held in relief. What is that**
8 **referring to? Are they holding onto your money**
9 **because of chargebacks?**

10 A I think they were holding onto a large
11 sum of money, correct.

12 **Q What's -- at the top here it says, "We**
13 **have routed the recommendation for the partial**
14 **ROR." What's ROR?**

15 A I have no idea.

16 **Q But the point is they were holding**
17 **some money to apply to chargebacks?**

18 MR. BLANCHARD: Objection. Calls for
19 speculation.

20 Objection. Form.

21 THE WITNESS: They were holding money
22 because of the chargebacks, and I think we were
23 only doing business for at the time I think four
24 months maybe. We were a pretty new company to
25 them. I think they just had a little bit of

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1 foundation.

2 THE WITNESS: She -- the way this
3 works, she is -- she's a subagent for, I guess,
4 Fiserv. So we went through her to get connected
5 to Fiserv so everything is linked in the same
6 way. She is just -- she's just a subagent.

7 BY MS. SCHAEFER:

8 **Q She's a subagent. Who pays her?**

9 A Who paid her?

10 **Q I mean, I guess what do you mean.**
11 **She's -- I don't understand the relationship**
12 **between her, Fiserv, and you. I'm sorry. Can**
13 **you explain that to me again?**

14 A I guess the way this industry works,
15 you can't go straight to Fiserv and be "Hey, I
16 want to process credit card transactions." So we
17 go to processors -- they're called sub -- I
18 forget what they're called. For the sake of it,
19 let's just call them subagents of Fiserv.

20 And basically we go to them. They
21 take all our documents. They go through the
22 underwriting. They make sure the company is good
23 and everything is good, and then they basically
24 submit it to Fiserv for approval. That's
25 basically how it works. I don't think we ever

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1 doubts about us. So yes, they were holding the
2 funds -- they were letting us process
3 transactions, but they were holding a X reserve.

4 (Deposition Exhibit Number 18 was
5 marked for identification and attached to the
6 transcript.)

7 MS. SCHAEFER: So this is 18.

8 BY MS. SCHAEFER:

9 **Q Why don't you go ahead and just tell**
10 **me when you're done.**

11 A Yes.

12 **Q Were you put in a Visa Standard**
13 **Dispute Monitoring Program?**

14 MR. BLANCHARD: I didn't hear you,
15 Michelle.

16 BY MS. SCHAEFER:

17 **Q Were you, Zaappaaz, placed in a Visa**
18 **Dispute Monitoring Program?**

19 A I don't know what that is, but -- I
20 don't know what that is.

21 **Q Do you have any knowledge of this**
22 **Standard Visa Monitoring Program?**

23 A No. I have no knowledge of their
24 internal metrics. But I am aware of the e-mail,
25 yes.

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1 **Q Were you aware that you were put into**
2 **a monitoring program?**

3 A No. I know I was held -- my funds
4 were being held. I wasn't aware of any
5 monitoring program, no.

6 **Q Was this something Khalil was**
7 **handling?**

8 A I was pretty closely handling it with
9 Khalil. I think Khalil was making responses on
10 these as well.

11 **Q Okay. But you're aware you had high**
12 **chargebacks. You just don't have a recollection**
13 **of being in this monitoring program?**

14 A I mean, I knew I was in a reserve
15 program. I guess maybe it's ticky-tack. I don't
16 know the term. It's called a Visa Monitoring
17 Program. Maybe I knew we were -- our funds were
18 being held in a reserve. If that's what the Visa
19 Monitor Program is, then that's what it is. I
20 don't -- I don't recall the term Visa Monitoring
21 Program. I don't know what that is.

22 **Q So go ahead and read this e-mail.**
23 **(Deposition Exhibit Number 19 was**
24 **marked for identification and attached to the**
25 **transcript.)**

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1 MR. BLANCHARD: It's the same e-mail.
2 Document 19.

3 MS. SCHAEFER: Is this the same?

4 MR. BLANCHARD: No. Sorry.

5 MS. SCHAEFER: That's okay.

6 THE WITNESS: Okay.

7 BY MS. SCHAEFER:

8 **Q The first string of the e-mail where**
9 **you're talking to Dr. Pappas and Michael Aufiero,**
10 **you say, "I need to get in touch with someone**
11 **regarding my processor that's being terminated."**
12 **What processor is that?**

13 A Fiserv, I believe.

14 **Q That's who you're speaking to,**
15 **correct?**

16 A That's correct.

17 **Q You're -- they're terminating you?**

18 A Yes. That's correct.

19 **Q Did they ultimately terminate you?**

20 A I believe so. We weren't transacting
21 while the reserves were being held. It didn't
22 make economical sense, and we weren't transacting
23 at all with this company. We were using Stripe.
24 So I guess.

25 **Q They were holding onto your reserves?**

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1 A They held onto our reserves for about
2 eight months after they terminated us, I believe.

3 **Q Were they using them to do**
4 **chargebacks?**

5 A They were using them to -- they were
6 using them to secure themselves to make sure that
7 they're not going to receive debt in chargebacks,
8 but ultimately we received it back.

9 (Deposition Exhibit Number 20 was
10 marked for identification and attached to the
11 transcript.)

12 BY MS. SCHAEFER:

13 **Q Go ahead and read this.**

14 A Okay.

15 **Q And so do you recognize this reduction**
16 **plan that was prepared?**

17 MR. BLANCHARD: Do you want to start
18 here?

19 THE WITNESS: I'm good. Go to Page 3.
20 Where are you seeing a reduction program? I'm
21 not seeing where you're referencing.

22 BY MS. SCHAEFER:

23 **Q So if you go to the -- so the first**
24 **page you see, "Please use this attachment," and**
25 **then there's a write-up right below Mr. Khalil.**

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1 A Uh-huh.

2 **Q And then below that it says,**
3 **"Wednesday, June 10th, 2020, Karishma wrote: Did**
4 **you get a chance to check the chargeback**
5 **reduction template? Let me know if all is good**
6 **so it can be submitted."**

7 A I don't think we needed to really
8 worry about this because we -- we had explained
9 it above -- I believe the reduction template -- I
10 don't know. I don't recall that reduction
11 template. I believe it was a template to show
12 how we will reduce chargebacks, but I am not 100
13 percent on that.

14 **Q And then -- so I'm looking at the**
15 **message now, and we can look at the last page,**
16 **which is what's purported to be the reduction**
17 **program, and then there's that third paragraph**
18 **that talks about starting to ship from the U.S.**
19 **I'm just wondering if that was -- if you know how**
20 **Zaappaaz was proposing to address some of these**
21 **shipment and delivery problems.**

22 A That was one of the ways.

23 **Q What were other ways?**

24 A Other ways was extending our delivery
25 dates, putting information on the website,

<p style="text-align: right;">221</p> <p>1 notifying our customers to reduce the</p> <p>2 chargebacks.</p> <p>3 (Deposition Exhibit Number 21 was</p> <p>4 marked for identification and attached to the</p> <p>5 transcript.)</p> <p>6 BY MS. SCHAEFER:</p> <p>7 Q You can go ahead and read this.</p> <p>8 MR. BLANCHARD: Do you want me to --</p> <p>9 BY MS. SCHAEFER:</p> <p>10 Q Have you read it?</p> <p>11 A Yeah, I think so.</p> <p>12 Q Why did you need the letter of credit?</p> <p>13 A Well, they were holding about \$2.3</p> <p>14 million. So they were asking -- they were</p> <p>15 holding \$2.3 million, and they were asking us for</p> <p>16 them to deleverage themselves. They needed to</p> <p>17 get a letter of credit from my bank to be like</p> <p>18 hey Azim or the company has the capacity for X</p> <p>19 amount of dollars, which I think they were</p> <p>20 requesting 4 million to have a letter of credit</p> <p>21 for to release the funds.</p> <p>22 Q Did you -- did the letter of credit</p> <p>23 get executed?</p> <p>24 A We didn't need to.</p> <p>25 Q You didn't need to, okay.</p>	<p style="text-align: right;">223</p> <p>1 A That is correct.</p> <p>2 Q Okay.</p> <p>3 MR. BLANCHARD: Michelle, can we go</p> <p>4 off the record for a second and talk?</p> <p>5 (A brief recess was taken.)</p> <p>6 MS. SCHAEFER: We are going to suspend</p> <p>7 today's deposition and adjourn for today, and</p> <p>8 then we are going to reconvene tomorrow morning.</p> <p>9 What time do people -- well it's noticed already</p> <p>10 for 9:30. The court reporter is coming. So we</p> <p>11 will continue tomorrow.</p> <p>12 MR. BLANCHARD: All right. Thanks and</p> <p>13 I'll stay on.</p> <p>14 (Whereupon, the signature not having been waived,</p> <p>15 the deposition adjourned at 5:58 p.m.)</p>
<p style="text-align: right;">222</p> <p>1 A No.</p> <p>2 (Deposition Exhibit Number 22 was</p> <p>3 marked for identification and attached to the</p> <p>4 transcript.)</p> <p>5 BY MS. SCHAEFER:</p> <p>6 Q Here's another e-mail. You want to</p> <p>7 read it?</p> <p>8 A Okay.</p> <p>9 Q And so the bolded language is from --</p> <p>10 is that from Risk Serve -- Fiserv?</p> <p>11 A The one that's highlighted, I believe</p> <p>12 so.</p> <p>13 Q Now she's talking about a chargeback</p> <p>14 reduction plan?</p> <p>15 A If we'd like to still process with</p> <p>16 them, correct.</p> <p>17 Q And did you?</p> <p>18 A No. We went with Stripe.</p> <p>19 Q I'm looking at this chart, and what --</p> <p>20 what is the difference between returns and then</p> <p>21 total chargeback?</p> <p>22 A That's refunds, I believe.</p> <p>23 Q Returns are refunds, and total</p> <p>24 chargebacks are the chargebacks from credit card</p> <p>25 companies?</p>	<p style="text-align: right;">224</p> <p>1 * * *</p> <p>2 ACKNOWLEDGMENT OF DEPONENT</p> <p>3</p> <p>4 I, Azim Makanojiya, do hereby acknowledge I have</p> <p>5 read and examined the foregoing pages of</p> <p>6 testimony, and the same is a true, correct and</p> <p>7 complete transcription of the testimony given by</p> <p>8 me, and any changes and/or corrections, if any,</p> <p>9 appear in the attached errata sheet signed by me.</p> <p>10</p> <p>11</p> <p>12</p> <p>13 Date Azim Makanojiya</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Tammy S. Newton, the officer before
 3 whom the foregoing proceedings was taken, do
 4 hereby certify that the foregoing transcript is a
 5 true and correct record of the proceedings; that
 6 said proceedings were taken by me
 7 stenographically and thereafter reduced to
 8 typewriting under my supervision; and that I am
 9 neither counsel for, related to, nor employed by
 10 any of the parties to this case and have no
 11 interest, financial or otherwise, in its outcome.

12 IN WITNESS WHEREOF, I have hereunto set
 13 my hand and affixed my notarial seal this 23rd
 14 day of August, 2021.
 15 My commission expires:
 16 3/05/2022

17 s/Tammy S. Newton
 18 Notary Public in and for the
 19 State of Maryland
 20
 21
 22
 23
 24
 25

227

1 DEPOSITION ERRATA SHEET

2 Page No. ____ Line No. ____ Change to:

3
4 Reason for Change: _____

5 Page No. ____ Line No. ____ Change to:

6
7 Reason for Change: _____

8 Page No. ____ Line No. ____ Change to:

9
10 Reason for Change: _____

11 Page No. ____ Line No. ____ Change to:

12
13 Reason for Change: _____

14 Page No. ____ Line No. ____ Change to:

15
16 Reason for Change: _____

17 Page No. ____ Line No. ____ Change to:

18
19 Reason for Change: _____20
21 SIGNATURE: _____22 Azim Makanojiya
23
24
25

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1 DEPOSITION ERRATA SHEET

2 Page No. ____ Line No. ____ Change to:

3
4 Reason for Change: _____

5 Page No. ____ Line No. ____ Change to:

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8 Page No. ____ Line No. ____ Change to:

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11 Page No. ____ Line No. ____ Change to:

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14 Page No. ____ Line No. ____ Change to:

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17 Page No. ____ Line No. ____ Change to:

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19 Reason for Change: _____

20 Page No. ____ Line No. ____ Change to:

21
22 Reason for Change: _____23
24 SIGNATURE: _____

25 Azim Makanojiya

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For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555